

FEDERAL REGISTER

VOLUME 21

NUMBER 162

Washington, Tuesday, August 21, 1956

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM COMPETITIVE SERVICE

DEPARTMENT OF THE ARMY

Effective upon publication in the FEDERAL REGISTER, paragraph (c) (2) is added to § 6.105 as set out below.

§ 6.105 *Department of the Army.*

(c) *Engineer Department.* * * *
(2) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) on survey, construction, short-term maintenance, or floating plant operations located at sites outside District or Division Headquarters cities, where because of turnover, lack of housing facilities, mobility or work site, or remoteness of personnel servicing facilities, an adequate labor force can be recruited only by immediate gate-hiring on a local basis. This authority can be used only when the Commission has determined that it is specifically applicable to a given situation; and in no event can it be used for employment in Civil Service central office and regional and branch office cities or where there is a local Board of U. S. Civil Service Examiners to service the employing establishment.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
WM. C. HULL,
Executive Assistant.

[P. R. Doc. 56-6738; Filed, Aug. 20, 1956; 8:49 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

SUBPART—UNITED STATES STANDARDS FOR NORTHERN GROWN ONIONS

By virtue of the authority vested in me by the Secretary of Agriculture, I hereby

approve the publication in the FEDERAL REGISTER of the following United States Standards for Northern Grown Onions which have been in effect since July 31, 1944. These standards are currently in effect pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.).

INTRODUCTION

Sec. 51.2830 Introduction.

GRADES

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51.2832 U. S. Commercial.
51.2833 U. S. No. 1 Bollers.
51.2834 U. S. No. 1 Picklers.
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UNCLASSIFIED

51.2836 Unclassified.

DEFINITIONS

51.2837 Mature.
51.2838 Fairly firm.
51.2839 Fairly well shaped.
51.2840 Doubles.
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51.2843 Damage.
51.2844 Diameter.
51.2845 Badly misshapen.
51.2846 Serious damage.
51.2847 One type.

AUTHORITY: §§ 51.2830 to 51.2847 Issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

INTRODUCTION

§ 51.2830 *Introduction.* (a) The tolerances for the standards are on a container basis. However, not to exceed 10 percent of the individual packages in any lot may vary from the specified tolerances as stated below, provided the averages for the entire lot, based on sample inspection, are within the tolerances specified and provided further, that decay in any one package shall in no case exceed three times the tolerance.

(b) For a tolerance of 10 percent or more, individual packages in any lot may contain not more than one and one-half times the tolerance specified.

(c) For a tolerance of less than 10 percent, individual packages in any lot may contain not more than double the tolerance specified, provided at least one specimen which does not meet the requirements shall be allowed in any one package.

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FEDERAL REGISTER

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GRADES

§ 51.2831 *U. S. No. 1. U. S. No. 1* shall consist of onions of similar varietal characteristics which are mature, fairly firm, fairly well shaped, free from decay, doubles, bottlenecks, scallions, and from damage caused by seedstems, splits, tops, roots, sunscald, sunburn, sprouting, freezing, peeling, cracked fleshy scales, dirt or staining, foreign matter, disease, insects, or mechanical or other means. Unless otherwise specified, the minimum size shall be 1½ inches in diameter, and in the case of yellow, brown, or red onions, 40 percent or more, and in the case of white onions, 30 percent or more, by weight, of the onions in any lot shall be 2 inches or larger in diameter.

(a) In order to allow for variations other than size, incident to proper grading and handling, not more than 10 percent, by weight, of the onions in any container may be damaged by peeling, and not more than 5 percent may be below the remaining requirements of this grade but not more than two-fifths of this tolerance, or 2 percent, may be allowed for onions which are affected by decay. In addition, not more than 5 percent, by weight, may be below the minimum size specified, and not more than 15 percent may be above any specified maximum size. No part of any tolerance shall be allowed to reduce the percentage of onions which shall be 2 inches or larger in diameter or any other specified size or larger, but individual containers may have not more than 25 percent less than the percentage specified, provided that the entire lot averages within the percentage specified.

§ 51.2832 *U. S. Commercial. U. S. Commercial* shall consist of onions of similar varietal characteristics which

are mature, not soft or spongy, not badly misshapen, free from decay, doubles, bottlenecks, scallions, and from damage caused by seedstems, tops, roots, sunscald, sunburn, cracked fleshy scales, sprouting, freezing, disease, insects, or mechanical or other means, and from serious damage by splits, dirt or staining, or other foreign matter. Unless otherwise specified, the minimum size shall be 1½ inches in diameter.

(a) In order to allow for variations other than size, incident to proper grading and handling, not more than 5 percent, by weight, of the onions in any container may be below the requirements of this grade, but not more than two-fifths of this tolerance, or 2 percent, may be allowed for onions which are affected by decay. In addition, not more than 5 percent, by weight, may be below the size specified, and not more than 15 percent may be above any specified maximum size.

§ 51.2833 *U. S. No. 1 Boilers. U. S. No. 1 Boilers* shall consist of onions which meet all requirements for U. S. No. 1 grade except for size. The size of onions of this grade shall be not less than 1 inch nor more than 1¾ inches in diameter.

(a) In order to allow for variations other than size, incident to proper grading and handling, not more than 10 percent, by weight, of the onions in any container may be damaged by peeling, and not more than 5 percent, by weight, of the onions may be below the remaining requirements of this grade, but not more than two-fifths of this tolerance, or 2 percent, may be allowed for onions which are affected by decay. In addition, not more than 5 percent, by weight, may be below the minimum size, and not more than 15 percent may be above the maximum size specified for this grade.

§ 51.2834 *U. S. No. 1 Picklers. U. S. No. 1 Picklers* shall consist of onions which meet all requirements for U. S. No. 1 grade except for size. The maximum size of onions of this grade shall not be more than one inch in diameter.

(a) In order to allow for variations other than size, incident to proper grading and handling, not more than 10 percent, by weight, of the onions in any container may be damaged by peeling, and not more than 5 percent, by weight, of the onions may be below the remaining requirements of this grade, but not more than two-fifths of this tolerance, or 2 percent, may be allowed for onions which are affected by decay. In addition, not more than 15 percent, by weight, may be above the maximum size specified for this grade.

§ 51.2835 *U. S. No. 2. U. S. No. 2* shall consist of onions of one type, which are mature, not soft or spongy, free from decay, scallions, and from serious damage caused by seedstems, sunscald, sprouting, freezing, disease, insects, mechanical or other means. Unless otherwise specified, the minimum size shall be 1½ inches in diameter.

(a) In order to allow for variations other than size, incident to proper grading and handling, not more than 5 percent, by weight, of the onions in any con-

tainer may be below the requirements of this grade, but not more than two-fifths of this amount, or 2 percent, may be allowed for onions affected by decay. In addition, not more than 5 percent, by weight, may be below the minimum size specified, and not more than 15 percent may be above any specified maximum size.

UNCLASSIFIED

§ 51.2836 *Unclassified. Unclassified* shall consist of onions which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no definite grade has been applied to the lot.

DEFINITIONS

§ 51.2837 *Mature. "Mature"* means dry and well cured. Midseason onions which are not customarily held in storage shall be considered mature when harvested in accordance with good commercial practice at a stage which will not result in the onions becoming soft or spongy.

§ 51.2838 *Fairly firm. "Fairly firm"* means that the onion may yield slightly to moderate pressure but is not appreciably soft or spongy.

§ 51.2839 *Fairly well shaped. "Fairly well shaped"* means having the shape characteristic of the variety, but slightly off-type, slightly elongated or slightly misshapen onions shall be admitted to U. S. No. 1 grade.

§ 51.2840 *Doubles. "Doubles"* means onions which have developed more than one distinct bulb joined only at the base.

§ 51.2841 *Bottlenecks. "Bottlenecks"* are onions which have abnormally thick necks with only fairly well developed bulbs.

§ 51.2842 *Scallions. "Scallions"* are onions which have thick necks and relatively small and poorly developed bulbs.

§ 51.2843 *Damage. "Damage"* means any defect which materially affects the appearance of the lot or the edible or shipping quality of the individual onions. Any one of the following defects shall be considered as damage:

(a) Seedstems which are tough or woody, or which are more than ¼ inch in diameter.

(b) "Damage by splits." A split is an onion which has more than one distinct bulb at least partially covered by an outer scale. Such an onion, if not well cured, shall be considered damaged when not completely covered by more than one outer scale. If well cured, such an onion shall not be regarded as damaged if practically covered by an outer scale, unless the distinct bulbs cause the onion to be materially misshapen.

(c) "Damage by tops." In considering this factor the appearance of the lot of onions as a whole should be considered. While all onions should be trimmed to less than 2 inches, there are often some that have been cut with tops a little longer. However, any lot of onions having more than 20 percent of

¹ Any lot of onions quoted as being of size smaller than 1½ inches minimum such as "U. S. No. 1, 1¼ inches min." is not required to meet the percentages which shall be 2 inches or larger as specified in the U. S. No. 1 grade.

onions with tops over 2 inches in length shall be considered as damaged. This percentage is given only as a guide and it may be reduced if the tops are very long. For example, not more than 10 percent of onions may have tops longer than 5 inches.

(d) Sunscald which affects the shipping or market quality. Slight dry scald which is not readily apparent without peeling the onion shall not be considered as damage.

(e) "Peeled" onions when more than one-half of the thin papery skin is missing, leaving the larger portion of the fleshy outer scale unprotected. Such onions are sometimes referred to as "bald" or "skinned" onions, or "peelers".

(f) Cracked fleshy scale, when one or more of the fleshy scales are cracked. Such onions are undesirable because of the possibility of decay organisms entering the insured tissue. Cracking of the thin papery skins shall not be regarded as damaged.

(g) "Damage by dirt or staining." Any lot of onions which is dirty or materially stained shall be considered as damaged. In this connection the number of stained onions permitted before the lot is considered damaged, will depend upon the degree of staining on individual onions. As a guide, a lot of yellow, brown, or red onions should be considered damaged if the appearance is affected to a greater extent than the presence of 15 percent appreciably stained plus 5 percent badly stained onions. A lot of white onions should be considered damaged if the appearance is affected to a greater extent than the presence of 10 percent appreciably stained plus 5 percent badly stained onions. If a lot of onions contains the percentages of appreciably stained and badly stained onions mentioned above and most of the remainder of the onions in the lot shows staining of a lesser degree, but approaches that which is considered appreciably stained, then the lot shall be considered damaged by staining. If a lot of onions contains slightly more than the percentages of appreciably stained onions mentioned above and most of the remainder of the onions in the lot shows none or very little staining, then the lot should be considered as not damaged by staining. Onions with adhering or caked dirt which affects the appearance to the same extent as appreciably stained or badly stained onions shall be scored in combination with any stained onions that may be present in the lot.

§ 51.2844 *Diameter*. "Diameter" means the greatest dimension at right angles to a straight line running from the stem to the root.

§ 51.2845 *Badly misshapen*. "Badly misshapen" means that the onion is so elongated or misshapen that its appearance is seriously affected.

§ 51.2846 *Serious damage*. "Serious damage" means any defect which seriously affects the appearance of the lot or the edible or shipping quality of the individual onions. Any one of the following defects shall be considered as serious damage:

(a) Splits, when the condition causes the onion to be badly misshapen.

(b) Any lot of onions that is seriously damaged by dirt including badly stained onions. A lot of onions shall be considered seriously damaged by staining when more than 25 percent of the lot is badly stained. Onions with adhering or caked dirt which affects the appearance to the same extent as badly stained onions shall be scored in combination with any badly stained onions that may be present in the lot.

(c) Seedstems which are more than one-half inch in diameter.

(d) Sprouting, when the sprouts are more than one-half inch in length or the onion has become soft or spongy.

§ 51.2847 *One type*. "One type" means that the onions are of the same color.

Dated: August 16, 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 56-6743; Filed, Aug. 20, 1956;
8:50 a. m.]

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[1026 (Cigar-Filler and Binder-56)-1]

PART 723—CIGAR-FILLER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

CIGAR-FILLER AND BINDER TOBACCO MARKETING QUOTA REGULATIONS 1956-57 MARKETING YEAR

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AUTHORITY: §§ 723.730 to 723.762 issued under sec. 375, 52 Stat. 66; 7 U. S. C. 1375. Interpret or apply secs. 301, 312, 314, 372, 373, 374, 375, 52 Stat. 33, 47, 48, 65, 66, as amended. 69 Stat. 24; 7 U. S. C. 1301, 1313, 1314, 1372, 1373, 1374, 1375.

GENERAL

§ 723.730 *Basis and purpose*. Sections 723.730 to 723.762 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the issuance of marketing cards, the identification of tobacco, the collection and refund of penalties, and the records and reports incident thereto on the marketing of cigar-filler and binder tobacco during the 1956-57 marketing year. Prior to preparing §§ 723.730 to 723.762, public notice (21 F. R. 5191) of their formulation was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations pertaining to §§ 723.730 to 723.762 which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

§ 723.731 *Definitions*. As used in §§ 723.730 to 723.762, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938, as amended.

(b) "Buyer" means a person who engages to any extent in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue. In the case of a person who employs person(s) to negotiate contracts with producers to purchase their tobacco, such person rather than such employed person(s) is the buyer of such tobacco.

(c) "Carry-over" tobacco means, with respect to a farm, tobacco produced prior to the beginning of the calendar year 1956 which has not been marketed or which has not been disposed of under § 723.745.

(d) *Committees*:

(1) "Community committee" means the persons elected within a community as the community committee pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees.

(2) "County committee" means the persons elected within a county as the county committee pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees.

(3) "State committee" means the persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State committee.

(e) "County officer manager" means the person employed by the county committee to execute the policies of the county committee and be responsible for the day-to-day operations of the ASC county office, or the person acting in such capacity.

(f) "Deputy Administrator" means the Deputy Administrator or the Acting Deputy Administrator for Production Adjustment, Commodity Stabilization Service, United States Department of Agriculture.

(g) "Director" means Director or Acting Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(h) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person including also:

(1) Any other adjacent or nearby farm land which the county committee determines is operated by the same person as part of the same unit with respect to the rotation of crops and with work-stock, farm machinery, and labor substantially separate from that for any other lands; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

(i) "Market" means the disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter, or exchange, or by gift *inter vivos*. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(j) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(k) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State or any agency thereof.

(l) "Producer" means a person who as owner, landlord, tenant, sharecropper, or laborer is entitled to share in the tobacco available for marketing from the farm or in the proceeds thereof.

(m) "Pound" means that amount of tobacco which, if weighed in its untempered form and in the condition in which it is usually marketed by producers, would equal one pound standard weight.

(n) "Sale" means the first marketing of farm tobacco on which the gross amount of the sales price therefor has been or could be readily determined.

(o) "Sale date" means the date on which the gross amount of the sales price of the first marketing of farm tobacco has been or could be readily determined.

(p) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(q) "State administrative officer" means the person employed by the State committee to execute the policies of the State committee and be responsible for the day-to-day operations of the ASC State office, or the person acting in such capacity.

(r) "Tobacco" means (1) (i) type 42 tobacco—that type of cigar-leaf tobacco commonly known as Gebhardt, Ohio Seedleaf, or Ohio Broadleaf, produced principally in the Miami Valley section of Ohio and extending into Indiana;

(ii) type 43 tobacco—that type of cigar-leaf tobacco commonly known as Zimmer, Spanish, or Zimmer Spanish, produced principally in the Miami Valley section of Ohio and extending into Indiana;

(iii) type 44 tobacco—that type of cigar-leaf tobacco commonly known as Dutch, Shoestring Dutch, or Little Dutch, produced principally in the Miami Valley section of Ohio; (iv) type 51 tobacco—that type of cigar-leaf tobacco commonly known as Connecticut Valley Broadleaf or Connecticut Broadleaf, produced primarily in the valley area of Connecticut;

(v) type 52 tobacco—that type of cigar-leaf tobacco commonly known as Connecticut Valley Havana Seed, or Havana Seed of Connecticut and Massachusetts, produced primarily in the Connecticut Valley area of Massachusetts and Connecticut; (vi) type 53 tobacco—that type of cigar-leaf tobacco commonly known as York State tobacco, or Havana Seed of New York and Pennsylvania, produced principally in the Big Flats section of New York, extending into Pennsylvania and in the Onondaga section of New York State; (vii) type 54 tobacco—that type of cigar-leaf tobacco commonly known as Southern Wisconsin cigar-leaf or Southern Wisconsin binder type, produced principally south and east of the Wisconsin river; and

(viii) type 55 tobacco—that type of cigar-leaf tobacco commonly known as Northern Wisconsin cigar-leaf or Northern Wisconsin binder type, produced principally north and west of the Wisconsin river, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture; (2) tobacco which has the same characteristics and corresponding qualities, colors, and lengths shall be treated as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco. The term "tobacco" shall include all leaves harvested, including trash;

(3) for the purpose of discovering and identifying all tobacco subject to marketing quotas the term "tobacco" with respect to any farm located in an area in which any kind of tobacco subject to marketing quotas is normally produced, shall include all acreage of tobacco on the farm, including any acreage which the farm operator may contend is not devoted to the production of tobacco as defined herein. The acreage of each

kind of tobacco (cigar-filler and binder, type 42-44 and 51-55) shall be determined by the county committee on the basis of seeding, cultivating, curing, and marketing practices commonly known to the area. Such determination shall include all acreage of tobacco on the farm. The production of the acreage of each kind of tobacco so determined shall be considered to be tobacco of the kind available for marketing until such time as the operator of the farm furnishes to the county committee satisfactory proof that a part or all of the production of such acreage has been classified pursuant to Part 29 of this title when marketed, as a different kind of tobacco. Any amount of tobacco so classified as a different kind shall be converted to acres on the basis of the average yield per acre of the entire acreage of tobacco grown on the farm in 1956 for the purpose of determining the harvested acreage of such kind of tobacco produced on the farm.

(s) "Tobacco available for marketing" means all tobacco produced on the farm in the calendar year 1956 plus any carry-over tobacco, less any tobacco disposed of in accordance with § 723.745.

(t) "Tobacco subject to marketing quotas" means any tobacco of types 42-44 and 51-55, inclusive, marketed during the period October 1, 1956, to September 30, 1957, inclusive, and any tobacco of 42-44 and 51-55 types, inclusive, produced in the calendar year 1956 and marketed prior to October 1, 1956.

(u) "Trucker" means a person who engages to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually marketed by producers.

§ 723.732 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions with respect to internal management as are necessary, for carrying out the regulations in this part. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator.

§ 723.733 *Extent of calculations and rule of fractions.* (a) The acreage of tobacco harvested on a farm in 1956 shall be expressed in hundredths and fractions of less than one-hundredth of an acre shall be dropped. For example, 1.550, 1.555, or 1.559 acres would be 1.55 acres.

(b) The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess," shall be expressed in tenths and fractions of less than one-tenth shall be dropped. For example, 12.59 percent would be 12.5 percent.

(c) The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty," shall be expressed in tenths of a cent and fractions of less than a tenth shall be dropped, except that if the resulting converted rate of penalty is less than a tenth of a cent, it shall be expressed in hundredths and fractions of less than a hundredth shall be dropped. For example, 3.68

cents per pound would be 3.6 cents, and 0.068 cent per pound would be 0.06 cent.

IDENTIFICATION AND LOCATION OF FARMS AND DETERMINATION OF ACREAGE

§ 723.734 *Identification and location of farms.* (a) Each farm as operated for the 1956 crop of tobacco shall be identified by a farm serial number assigned by the county office manager and all records pertaining to marketing quotas for the 1956 crop of tobacco shall be identified by such number.

(b) A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county in which the major portion of the farm is located.

§ 723.735 *Determination of tobacco acreage.*—(a) *County committees.* For the purpose of ascertaining with respect to each farm whether there is excess tobacco of the 1956 crop available for marketing, the county committee shall determine the acreage of tobacco on each farm in the county for which a 1956 tobacco acreage allotment has been established and on any other farms in the county on which the county committee has reason to believe tobacco was planted. The county committee's determination shall be based upon a measurement of the acreage made by identification of fields or parts of fields by use of a map, aerial photography, or by means of a steel or metallic tape or chain, or rod and chain, or by use of a measurement wheel when authorized by the Deputy Administrator, or by a combination of one or more of these methods. Such measurement shall be made by an employee of the county committee who has been designated as a reporter and determined by the county office manager to be qualified to carry out the duties of a reporter. The reporter shall visit each farm assigned to him for measurement and enter thereon if such entry will facilitate measurement. The county committee may at any time redetermine the tobacco acreage for any farm and shall, at the request of the State committee, make a redetermination of tobacco acreage for any farm. Such redetermination of tobacco acreage shall supersede any prior determination of tobacco acreage for the farm. A redetermination of tobacco acreage shall be based on measurements made in the manner provided for in this paragraph by either a reporter, county office manager, county performance supervisor, district performance supervisor, or any other employees of the ASC State office who are determined by the State administrative officer to be qualified to perform such measurements. In connection with any measurement of tobacco acreage for any farm made as provided in this paragraph, rechecks and spot checks of such measurements may be made by any of the county and State office employees authorized in this paragraph to perform measurements of farm tobacco acreage.

(b) *Farm operators.* The farm operator or his representative or any producer, at the reporter's request for such

information or assistance, shall designate all fields on the farm being utilized for growing tobacco and may assist in measuring the farm, the acreage of cropland in the farm, or the acreage of tobacco being grown on the farm.

(c) *Notice to farm operators.* The county committee shall notify the farm operator of the measured acreage of tobacco on each farm as determined under the provisions of this section.

(d) *Harvested acreage of tobacco.* The acreage of tobacco determined or as redetermined for a farm by the county committee pursuant to this section shall be the harvested acreage of tobacco for the farm for the purpose of issuing the correct marketing card for the farm as provided in § 723.738 unless the farm operator furnishes to the county committee satisfactory proof that a portion of the acreage planted will not be harvested or that a representative portion of the production of the acreage physically harvested will be disposed of other than by marketing, in which case the harvested acreage shall be the acreage as adjusted by taking into account the portion of the acreage planted which will not be harvested or the portion of the production of the acreage physically harvested which will be disposed of other than by marketing.

(e) *Acreage not determined.* If the farm operator or his representative prevents the county committee from obtaining information necessary to determine the correct acreage of tobacco on a farm, in addition to any other liability which might be imposed upon the operator, and until the farm operator or his representative permits a determination of the correct acreage, all acreage of tobacco on the farm shall be deemed to be in excess of the farm acreage allotment for the purpose of issuing a marketing card for the farm.

(f) *Prior measurements.* Measurements made prior to the effective date of this section, and in accordance with procedures then in effect may be utilized where pertinent for the purpose of ascertaining with respect to any farm the 1956 tobacco acreage and the tobacco acreage in excess of the 1956 farm tobacco acreage allotment.

FARM MARKETING QUOTAS AND MARKETING CARDS

§ 723.736 *Amount of farm marketing quota.* (a) The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment as established for the farm in accordance with 1023 (Cigar-Filler and Binder-56)-1, Marketing Quota Regulations 1956-57 (20 F. R. 6059). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1956 times the farm acreage allotment.

(b) The excess tobacco on any farm shall be (1) that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1956 times the number of acres harvested in excess of the farm acreage allotment, plus (2) any excess carry-over tobacco.

§ 723.737 *Transfer of farm marketing quotas.* There shall be no transfer of farm marketing quotas except as provided in §§ 723.720 and 723.726 of the cigar-filler and binder tobacco marketing quota regulations for determining acreage allotment and normal yields, 1956-57 marketing year.

§ 723.738 *Issuance of marketing cards.* (a) A marketing card shall be issued for each farm having tobacco available for marketing. Subject to the approval of the county office manager or the State administrative officer as provided in § 723.739 two or more marketing cards may be issued for any farm. Upon return to the ASC issuing office of the marketing card after all of the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the State administrative officer or County office manager, who issued the card to have been lost, destroyed or stolen.

(b) *Within Quota Marketing Card (MQ-76—Tobacco).* A Within Quota Marketing Card authorizing price support loans and the marketing without penalty of any tobacco available for marketing shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco for the farm in 1956 is not in excess of the farm acreage allotment therefor and any excess carry-over tobacco can be marketed without penalty under the provisions of § 723.744 (b) except that if:

(i) More than one kind of tobacco is produced on a farm in 1956 a "zero percent" excess marketing card (ineligible for price support loans) shall be issued for each kind of tobacco for which the harvested acreage is not in excess of the farm acreage allotment if at the time of issuing marketing cards for the farm the harvested acreage of any kind is in excess of the farm acreage allotment;

(ii) For any kind of tobacco produced on a farm in 1956 the acreage of which is in excess of the allotment and the operator or any other producer on the farm fails to file with the county ASC office a written request (with deposit to cover the cost as estimated by the county committee) to dispose of the excess tobacco acreage or to have a remeasurement made of the tobacco acreage within ten (10) days from the date of notice to the farm operator on Form CSS-595—Tobacco, Notice of Excess Tobacco Acreage, a "zero percent" excess marketing card shall be issued for each such kind of tobacco even though the excess acreage is disposed of other than by marketing unless the county committee with the approval of a representative of the State committee determines that the failure to file such written request was due to circumstances beyond the control of the farm operator or producer; or

(iii) Any tobacco is physically harvested from a farm in 1956 from an

acreage in excess of the allotment for the farm and even though it is disposed of in accordance with § 723.745 (a), a "zero percent" excess marketing card shall be issued for each such kind of tobacco, unless the county committee with the approval of a representative of the State committee determines that the acreage of tobacco was not measured in sufficient time to afford the farm operator an opportunity to dispose of the excess acreage prior to harvest.

(2) If the Director of a publicly owned Agricultural Experiment Station furnishes to the ASC State office a list by counties showing with respect to each kind of tobacco and farm on which tobacco is grown for experimental purposes only the following:

(i) Name and address of the publicly owned Experiment Station;

(ii) Name of the owner, and name of the operator if different from the owner, of each farm on which tobacco is grown for experimental purposes only;

(iii) The amount of acreage of tobacco grown on each farm for experimental purposes only;

(iv) A certification signed by the Director of the publicly owned Agricultural Experiment Station to the effect that: (a) Such acreage of tobacco was grown on each farm for experimental purposes only; (b) the tobacco was grown under his direction; and (c) that the acreage in each plot was considered necessary for carrying out the experiment.

The list required in this subparagraph shall be posted and kept available for public inspection in the ASC office of the county in which the farms included in the list are located.

(c) *Excess Marketing Card (MQ-77—Tobacco).* An Excess Marketing Card (ineligible for price support loans) showing the extent to which marketings of tobacco from a farm are subject to penalty shall be issued unless a within quota marketing card is required to be issued for the farm under paragraph (b) of this section, except that if the farm operator or his representative prevents the county committee or its representative from obtaining information necessary to the issuance of the correct marketing card, an excess marketing card shall be issued showing that all tobacco from the farm is subject to the rate of penalty set forth in § 723.747.

§ 723.739 *Persons authorized to issue marketing cards.* (a) The State administrative officer shall be responsible for the issuance of marketing cards issued for the purpose of identifying tobacco grown for experimental purposes pursuant to the provision of § 723.738 (b) (2).

(b) Except as provided in paragraph (a) of this section the county office manager shall be responsible for the issuance of marketing cards for farms in the county.

(c) Each marketing card shall be signed either by the State administrative officer or the county office manager or in his name and on his behalf by an employee under his supervision who shall place his initials immediately below the name of the State administrative officer

or the name of the county office manager as the case may be.

§ 723.740 *Rights of producers in marketing cards.* Each producer having a share in the tobacco available for marketing from a farm shall be entitled to the use of the marketing card for marketing his proportionate share.

§ 723.741 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from a farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 723.742 *Invalid cards.* (a) A marketing card shall be invalid if:

(1) It is not issued or delivered in the form and manner prescribed;

(2) Entries are omitted or incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or

(4) Any erasure or alteration has been made and not properly initialed.

(b) In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or by omission, alteration or incorrect entry which has been corrected by the State administrative officer or the county office manager who issued the card), the farm operator, or the person having the card in his possession, shall return it to the ASC office at which it was issued.

(c) If an entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by the State administrative officer or the county office manager who issued the card, then such card shall become valid.

§ 723.743 *Report of misuse of marketing card.* Any information which causes a member of a State, county, or community committee, or an employee of an ASC State or county office, to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the ASC county or State office.

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

§ 723.744 *Extent to which marketing from a farm are subject to penalty.* (a) Marketings of tobacco from a farm having no carry-over tobacco available for marketing shall be subject to penalty by the percent excess determined as follows: Divide the acreage of tobacco harvested in excess of the farm acreage allotment and not disposed of under § 723.745 by the total acreage of tobacco harvested from the farm.

(b) Marketings of tobacco from a farm having carry-over tobacco available for marketing shall be subject to penalty by the percent excess determined as follows:

(1) Determine the number of "carry-over acres" by dividing the number of pounds of carry-over tobacco from the prior years by the normal yield for the farm for that year.

(2) Determine the number of "within quota carry-over acres" by multiplying

the "carry-over acres" (subparagraph (1) of this paragraph) by the "percent within quota" (i. e., 100 percent minus the "percent excess") for the year in which the carry-over tobacco was produced except that if the excess portion of the carry-over tobacco has been disposed of under § 723.745 the "percent within quota" shall be 100.

(3) Determine the "total acres" of tobacco by adding the "carry-over acres" (subparagraph (1) of this paragraph) and the acreage of tobacco harvested in the current year.

(4) Determine the "excess acres" by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the 1956 allotment and the "within quota carry-over acres" (subparagraph (2) of this paragraph).

(5) Determine the percent excess by dividing the "total acres" into the "excess acres" (subparagraph (4) of this paragraph).

(6) Those persons having an interest in the carry-over tobacco for a farm shall be liable for the payment of any penalty due thereon.

(c) For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the applicable rate of penalty by the percent excess obtained under paragraph (a) or (b) of this section. The memorandum of sale issued to identify each such marketing shall show the amount of penalty due.

§ 723.745 *Disposition of excess tobacco.* (a) The farm operator may elect to give satisfactory proof of disposition of excess tobacco prior to the marketing of any tobacco from the farm by furnishing to the county committee satisfactory proof that excess tobacco representative of the entire crop will not be marketed.

(b) If the 1956 harvested acreage is less than the 1956 allotment an amount of any tobacco from the farm which was placed under storage for a prior marketing year equal to the normal production of the acreage by which the 1956 harvested acreage plus any acreage added with respect to any excess carry-over tobacco for the farm pursuant to § 723.744 (b) is less than the 1956 allotment may be marketed penalty free.

§ 723.746 *Identification of marketings.* Each marketing of tobacco from a farm shall be identified by an executed memorandum of sale from the 1956 marketing card (MQ-76—Tobacco or MQ-77—Tobacco) issued for the farm on which the tobacco was produced.

(a) *Memorandum of sale.* (1) If a memorandum of sale is not issued by the buyer to identify a sale of producer's tobacco by the end of the sale date and recorded and reported on MQ-95, Buyer's Record, by the 10th day of the calendar month next following the month during which the sale date occurred, the marketing shall be identified on MQ-95, Buyer's Record, as a marketing of excess tobacco, and reported not later than the 10th day of the calendar

month next following the month during which the sale date occurred.

(2) Each excess memorandum of sale issued by a buyer shall be verified by the buyer to determine whether the amount of penalty shown to be due has been correctly computed and such buyer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in issuing the memorandum of sale.

§ 723.747 *Rate of penalty.* Marketings of excess tobacco from a farm shall be subject to a penalty per pound equal to seventy-five (75) percent of the average market price for the 1955-56 marketing year as determined by the Crop Reporting Board, Agricultural Marketing Service, United States Department of Agriculture. The rate of penalty per pound shall be calculated to the nearest whole cent.

(a) *Average market price.* The average market price as determined by the Crop Reporting Board, Agricultural Marketing Service, United States Department of Agriculture, for the 1955-56 marketing year was 32.5 cents per pound.

(b) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the 1956-57 marketing year shall be twenty-four (24) cents per pound.

(c) *Proportional rate of penalty.* With respect to tobacco marketed from farms having excess tobacco available for marketing, the penalty shall be paid upon that percentage of each lot of tobacco marketed which the tobacco available for marketing in excess of the farm quota is of the total amount of tobacco available for marketing from the farm as determined under § 723.744.

§ 723.748 *Persons to pay penalty.* The person to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Sale.* The penalty due on tobacco purchased directly from a producer, other than by a buyer outside the United States, shall be paid by the buyer of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Marketings through an agent.* The penalty due on marketings by a producer through an agent who is not a buyer shall be paid by the agent who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Marketings outside the United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 723.749 *Marketings deemed to be excess tobacco.* Any marketing of tobacco under any one of the following conditions shall be deemed to be a marketing of excess tobacco:

(a) *Without memorandum of sale.* Any sale of tobacco by a producer which is not identified by a valid memorandum of sale by the end of the sale date shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the buyer who may deduct an amount

equivalent to the penalty from the amount due the producer.

(b) *Unrecorded sale.* Any sale which is not recorded in MQ-95—Tobacco by the 10th day of the month next following the month during which the sale date occurred, shall be deemed to be a marketing of excess tobacco unless and until the buyer furnishes proof acceptable to the State administrative officer showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the buyer.

(c) *Marketings falsely identified.* If any marketing of tobacco by a person other than the producer thereof is identified by a marketing card other than the marketing card issued for the farm on which such tobacco was produced, such marketing shall be deemed to be a marketing of excess tobacco and the penalty thereon shall be paid by such person.

(d) *Producer marketings.* (1) If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in 1956 in excess of the farm acreage allotment shall be deemed to have been a marketing of excess tobacco from such farm. If any producer who manufactures tobacco products from tobacco produced by or for him fails to make the reports, or makes a false report, required under § 723.752 (c), he shall be deemed to have failed to account for the disposition of tobacco produced on the farm and shall be subject to penalty on such tobacco. The penalty thereon for false identification or failure to account shall be paid by the producer and shall be due on the date of false identification or failure to account. The filing of a report by a producer under § 723.752 (c) or (d) which the State committee finds to be incomplete or incorrect shall constitute a failure to account for the disposition of tobacco produced on the farm.

(2) If, after part or all of the tobacco produced on a farm has been marketed, the State or county committee concludes that the harvested acreage for the farm was more than that shown by the prior determination any penalty due on the basis of the harvested acreage as re-determined pursuant to § 723.735 shall be paid by the producer.

§ 723.750 *Payment of penalty.* (a) Penalties shall become due at the time the tobacco is marketed, except in the case of tobacco removed from storage as provided in § 723.745 (b), or in the case of false identification or failure to account for disposition. Penalty shall be paid by remitting the amount thereof to the ASC State office not later than the 10th day of the calendar month next following the month in which the tobacco became subject to penalty. A draft, money order, or check drawn payable to the Treasurer of the United States may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) The penalty due on any sale of tobacco by a producer as determined under §§ 723.730 to 723.762 shall be paid as specified in § 723.748 even though the

penalty may exceed the proceeds for the tobacco.

§ 723.751 *Request for return of penalty.* Any producer of tobacco after the marketing of all tobacco available for marketing from the farm and any other person who bore the burden of the payment of any penalty may request the return of the amount of such penalty which is in excess of the amount required under §§ 723.730 to 723.762 to be paid. Such request shall be filed on MQ-85—Tobacco with the ASC county office within two (2) years after the payment of the penalty.

RECORDS AND REPORTS

§ 723.752 *Producer's records and reports—(a) Report of tobacco acreage.* The farm operator or his representative shall file a report with the ASC county office or a representative of the county committee on Form CSS-578, Report of 1956 Acreage, showing all fields of tobacco on the farm in 1956. If any producer on a farm files or aids or acquiesces in the filing of any false report with respect to the acreage of tobacco grown on the farm even though the farm operator or his representative refuses to sign such report the allotment next established for such farm shall be reduced as provided in the cigar-filler and binder tobacco marketing quota regulations for determining acreage allotments and normal yields, 1957-58 marketing year.

(b) *Report on marketing card.* The operator of each farm on which tobacco is produced in 1956 shall return to the ASC county office each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than June 1, 1957. Failure to return the marketing card within fifteen (15) days after written request by certified mail from the county office manager shall constitute failure to account for disposition of tobacco marketed from the farm and in the event that a satisfactory account of such disposition is not furnished otherwise to the county committee, the allotment next established for such farm shall be reduced as provided in the cigar-filler and binder tobacco marketing quota regulations for determining acreage allotments and normal yields, 1957-58 marketing year. The county office manager or the State administrative officer who issued the marketing card may reissue the same marketing card or issue a new marketing card for any farm from which the marketing of tobacco has not been completed by June 1, 1957.

(c) *Reports by producer-manufacturers.* (1) Each producer who manufactures tobacco products from tobacco produced by or for him as a producer shall report to the ASC State office as follows with respect to such tobacco.

(i) If the 1956 harvested acreage is not in excess of the 1956 farm tobacco acreage allotment: The producer-manufacturer shall furnish the ASC State office a report, as soon as the tobacco has been weighed, and not later than the date specified in writing by the State administrative officer, showing the total pounds of tobacco produced, the date(s) on which such tobacco was weighed, the

farm serial number of the farm on which it was produced, and the estimated value of such tobacco.

(1) If the 1956 harvested acreage is in excess of the 1956 farm acreage allotment: The producer-manufacturer shall furnish the ASC State office a report, as soon as the tobacco has been weighed, and not later than the date specified in writing by the State administrative officer, showing the total pounds of tobacco produced on the farm, the date(s) on which the tobacco was weighed, the farm serial number of the farm on which it was produced, the estimated value of the tobacco, and the location of the tobacco. Unless it has become penalty free under circumstances described in § 723.744 (b), or unless he makes the reports outlined in this section, penalty shall be paid on the tobacco by the producer-manufacturer, at the converted rate of penalty shown on the marketing card issued for the farm, when it is moved from the place where it can be conveniently inspected by the county committee at any time separate and apart from any other tobacco.

(2) If the producer-manufacturer has excess tobacco and does not pay the penalty thereon at the converted rate of penalty shown on the marketing card, as provided in this section, he shall notify the buyer of the manufactured product, or the buyer of any residue resulting from processing the tobacco, in writing, at time of sale of such product or residue of the precise amount of penalty due on such manufactured product or residue. In such event, the producer-manufacturer shall immediately notify the Director and shall account for the disposition of such tobacco by furnishing the Director a report, on a form to be furnished him by the Director, showing the name and address of the buyer of the manufactured products or residue, a detailed account of the disposition of such tobacco and the exact amounts of penalty due with respect to each such sale of such products or residue, together with copies of the written notice of the exact amounts of the penalty due given to the buyers of such products or residue. Failure to file such report or the filing of a report which is found by the State committee to be incomplete or incorrect shall constitute failure of the producer-manufacturer to account for the production and disposition of tobacco produced on his farm and in the event of such failure the allotment next established for such farm shall be reduced as provided in the cigar-filler and binder tobacco marketing quota regulations for determining acreage allotments and normal yields, 1957-58 marketing year, and the producer-manufacturer shall be liable for the payment of penalty as provided in § 723.749 (d).

(3) The reports required by this paragraph shall be in addition to the reports required by paragraph (a) of this section with respect to tobacco produced by or for the producer-manufacturer but not used by him in the manufacture of products therefrom.

(d) *Report of production and disposition.* In addition to any other reports which may be required under §§ 723.730

to 723.762, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall upon written request by certified mail from the State administrative officer within fifteen days after the deposit of such request in the United States mails, addressed to such person at his last known address, furnish the Secretary on Form MQ-108—Tobacco a written report of the acreage, production and disposition made of all tobacco produced on the farm by sending the same to the ASC State office showing, as to the farm at the time of filing said report,

(1) The number of fields (patches or areas) from which tobacco was harvested, the acres of tobacco harvested from each such field, and the total acreage to tobacco harvested from the farm,

(2) The total pounds of tobacco produced,

(3) The amount of tobacco on hand and its location, and

(4) As to each lot of tobacco marketed, the name and address of the buyer or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of the marketing. Failure to file the report as requested, or the filing of a report which is found by the State committee to be incomplete or incorrect, shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm shall be reduced as provided in the cigar-filler and binder tobacco marketing quota regulations for determining acreage allotments and normal yields, 1957-58 marketing year.

§ 723.753 *Buyer's records.*—(a) *Record of marketing.* (1) Each buyer shall keep such records as will enable him to furnish the ASC State office with respect to each sale of tobacco made by producers to such buyer the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the seller and the seller's address in the case of a sale by a person other than the farm operator.

(ii) Date of sale.

(iii) The serial number of the memorandum of sale used to identify the sale.

(iv) Number of pounds sold.

(v) Gross sale price.

(vi) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s).

(2) Any buyer or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the ASC State office the name of the farm operator and the amount of each grade of tobacco obtained from the grading of tobacco from each farm.

(b) *Identification of sale on buyer's records.* The serial number of the memorandum of sale issued to identify each sale by a producer shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco. The serial number of such

memorandum shall also be entered on the buyer's copy of the receipt furnished the producer by the buyer, or the buyer's copy of the contract to purchase, or on the document customarily used in recording the purchase, and on MQ-95—Tobacco.

(c) *Marketing card and memorandum of sale.* A valid memorandum of sale to cover each sale of tobacco by a producer shall be properly issued by the buyer. The buyer shall also properly record the sale on the marketing card.

(d) *Records of buyer's disposition of tobacco.* Each buyer shall maintain records which will show the disposition made by him of all tobacco purchased by or for him from producers.

(e) *Additional records and reports by buyers.* Each buyer shall keep such records and furnish such reports to the ASC State office, in addition to the foregoing, as the State administrative officer may find necessary to insure the proper identification of the marketings of tobacco and the collection of penalties due thereon as provided in §§ 723.730 to 723.762.

§ 723.754 *Buyer's reports.*—(a) *Report of buyer's name, address, and registration number.* Each buyer shall properly execute, detach and promptly forward to the ASC State office "Receipt for Buyer's Record" contained in MQ-95—Tobacco which is issued to the buyer.

(b) *Record and report of purchases of tobacco from producers.* (1) Each buyer shall keep a record and make reports on MQ-95—Tobacco, Buyer's Record, showing all purchases of tobacco made by or for him from producers. Such record and report shall show for each sale, the sale date, the name of the farm operator (and the name and address of the person selling the tobacco if other than the farm operator), the serial number of the memorandum of sale issued with respect to the sale, the pounds of tobacco represented in the sale, the gross amount; the rate of penalty shown on the memorandum of sale, and the amount of the penalty. If no marketing card is presented by the producer, the buyer shall record and report the purchase as provided above except that the buyer shall enter the word "none" in the space for the serial number of the memorandum of sale, the penalty rate of twenty-four cents per pound in the space for rate of penalty, and shall show the name and address of the seller in the space for the seller's name.

(2) The original of MQ-95—Tobacco, the memoranda of sale, and a remittance for all penalties shown by the entries on MQ-95—Tobacco and on the memoranda of sale to be due shall be forwarded to the ASC State office not later than the 10th day of the calendar month next following the month during which the sale date occurred.

§ 723.755 *Buyers not exempt from regular records and reports.* No buyer shall be exempt from keeping the records and making the reports required by the regulations in this part. Any organization which receives tobacco from producers for (a) the purpose of selling it for the producer, or (b) the purpose of placing it under a Federal loan, shall keep the records, make the reports, and

remit penalties in case of receiving such tobacco for sale, as required in §§ 723.730 to 723.762 for buyers.

§ 723.756 *Records and reports of truckers and persons sorting, stemming, packing, or otherwise processing tobacco.* (a) Each person engaged to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually marketed by producers shall keep such records as will enable him to furnish the ASC State office a report with respect to each lot of tobacco received by him showing:

(1) The name and address of the farm operator,

(2) The date of receipt of the tobacco,

(3) The number of pounds received, and

(4) The name and address of the person to whom it was delivered.

(b) Each person engaged to any extent in the business of sorting, stemming, packing, or otherwise processing tobacco for producers shall keep such records as will enable him to furnish the Director a report showing:

(1) The information required above for truckers, and in addition,

(2) The purpose for which the tobacco was received,

(3) The amount of advance made by him on the tobacco, and

(4) The disposition of the tobacco.

§ 723.757 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a buyer or as a person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged in no other business.

§ 723.758 *Failure to keep records or make reports.* Any buyer, trucker, or person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers, who fails to make any report or keep any record as required under §§ 723.730 to 723.762 or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500; and any tobacco buyer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under these regulations within fifteen days after notice to him of such violation shall be subject to an additional fine of \$100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed \$5,000; and notice of such violation shall be served upon the tobacco buyer by mailing the same to him by registered mail or by posting the same at an established place of business

operated by him, or both. Notice of any violation by a buyer or trucker shall be given by the State administrative officer and notice of violation by a person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers shall be given by the Director.

§ 723.759 *Additional records and reports to Director.* Any buyer, trucker, or person engaged in the business of sorting, stemming, packing or otherwise processing tobacco for producers shall, in addition to any records required to be kept or any reports required to be made, under §§ 723.730 to 723.762, keep such records and make such reports to the Director as he may find necessary to enforce §§ 723.730 to 723.762.

§ 723.760 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report but not so furnished, any buyer, trucker, or person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers shall make available for examination by employees of the ASC State office, and by employees of the Compliance and Investigation Division, Audit Division, and of the Tobacco Division of the Commodity Stabilization Service, United States Department of Agriculture, upon written request by the State administrative officer or Director, such books, papers, records, accounts, correspondence, contracts, checks, check registers, check stubs, and documents and memoranda as the State administrative officer or Director has reason to believe are relevant and are within the control of such person.

§ 723.761 *Length of time records and reports to be kept.* Records required to be kept and copies of the reports required to be made by any person under §§ 723.730 to 723.762 for the 1956-57 marketing year shall be kept by him until September 30, 1959. Records shall be kept for such longer period of time as may be requested in writing by the State administrative officer or the Director.

§ 723.762 *Information confidential.* All data reported to or acquired by the Secretary pursuant to the provisions of §§ 723.730 to 723.762 shall be kept confidential by all officers and employees of the United States Department of Agriculture and by all members of county and community committees and all ASC county office employees and only such data so reported or acquired as the Deputy Administrator deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the act.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 16th day of August 1956. Witness my hand

and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 56-6745; Filed, Aug. 20, 1956;
8:50 a. m.]

[1026 (Maryland-56)-1]

PART 727—MARYLAND TOBACCO

MARYLAND TOBACCO MARKETING QUOTA REGULATIONS, 1956-57 MARKETING YEAR

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AUTHORITY: §§ 727.730 to 727.762 issued under sec. 375, 52 Stat. 66; 7 U. S. C. 1375. Interpret or apply 52 Stat. 38, 47, 48, 65, 66, as amended; 7 U. S. C. 1301, 1313, 1314, 1372, 1373, 1374, 1375.

GENERAL

§ 727.730 *Basis and purpose.* Sections 727.730 to 727.762 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the is-

suance of marketing cards, the identification of tobacco; the collection and refund of penalties, and the records and reports incident thereto on the marketing of Maryland tobacco during the 1956-57 marketing year. Prior to preparing §§ 727.730 to 727.762, public notice (21 F. R. 5294) of their formulation was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations pertaining to §§ 727.730 to 727.762, which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

§ 727.731 *Definitions.* As used in §§ 727.730 to 727.762 and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938, as amended.

(b) "Carry-over" tobacco means, with respect to a farm, tobacco produced prior to the beginning of the calendar year 1956, which has not been marketed or which has not been disposed of under § 727.745.

(c) "Committees":

(1) "Community committee" means the persons elected within a community as the community committee pursuant to the regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees.

(2) "County committee" means the persons elected within a county as the county committee pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees.

(3) "State committee" means the persons designated by the Secretary as Agricultural Stabilization and Conservation State committee.

(d) "County office manager" means the person employed by the county committee to execute the policies of the county committee and be responsible for the day-to-day operations of the ASC county office, or the person acting in such capacity.

(e) "Dealer" or "buyer" means a person who engages to any extent in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue or any other authority.

(f) "Deputy Administrator" means the Deputy Administrator or the Acting Deputy Administrator for Production Adjustment, Commodity Stabilization Service, United States Department of Agriculture.

(g) "Director" means Director or Acting Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(h) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee determines is operated by the same person as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other lands; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

(i) "Field Assistant" means any duly authorized employee of the United States Department of Agriculture, and any duly authorized employee of an ASC county office whose duties involve the preparation and handling of records and reports pertaining to tobacco marketing quotas. In a hogshead tobacco warehouse, a person officially authorized by an individual, association, or firm who engages in receiving tobacco from farmers and who assists in the sale of such tobacco through such warehouse to keep records and make reports for such individual, association, or firm with respect to sales of tobacco through the warehouse, shall perform the functions hereinafter prescribed for field assistants.

(j) "Floor sweepings" means scraps, leaves, or bundles of tobacco, generally of inferior quality, which accumulate on the warehouse floor and which not being subject to identification with any particular lot of tobacco are gathered up by the warehouseman for sale. Floor sweepings shall not include tobacco defined as "pick-ups."

(k) "Leaf account tobacco" means all tobacco purchased by or for a warehouseman and "leaf account" shall include the records required to be kept and copies of the reports required to be made under §§ 727.730 to 727.762 relating to tobacco purchased by or for a warehouseman and resales of such tobacco.

(l) "Market" means the disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(m) "Nonwarehouse sale" means any first marketing of farm tobacco other than (1) by sale at public auction through a warehouse, or (2) by sale through a hogshead tobacco warehouse to a buyer other than the warehouseman, in the regular course of business.

(n) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(o) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State or any agency thereof.

(p) Pick-ups means:

(1) "Pickups (a)" which is any tobacco sorted and reclaimed from leaves or bundles which have fallen to the warehouse floor in the usual course of business, or

(2) "Pickups (b)" which is any tobacco previously purchased at auction

but not delivered to the buyer because of rejection by the buyer, lost ticket, or any other reason, and which is not turned back to a dealer other than the warehouseman, and shall include tobacco delivered to the buyer but returned by the buyer to the warehouseman, and which is not turned back by the warehouseman to a dealer.

(q) "Producer" means a person who, as owner, landlord, tenant, sharecropper, or laborer is entitled to share in the tobacco available for marketing from the farm or in the proceeds thereof.

(r) "Pound of tobacco" means one pound of tobacco weighed in its unstemmed form and in the condition in which it is usually marketed by producers.

(s) "Resale" means the disposition by sale, barter, exchange, or gift inter vivos, of tobacco which has been marketed previously.

(t) "Sale day" means the period at the end of which the warehouseman bills to buyers the tobacco so purchased during such period.

(u) "Scrap tobacco" means the residue which accumulates in the course of preparing tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(v) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(w) "State administrative officer" means the person employed by the State committee to execute the policies of the State committee and be responsible for the day-to-day operations of the ASC State office, or the person acting in such capacity.

(x) "Suspended sale" means any first marketing of farm tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the sale day on which such marketing occurred.

(y) "Tobacco" means Maryland tobacco, type 32, as classified in the Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture.

(1) Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths as Maryland tobacco shall be considered Maryland tobacco regardless of any factors of historical or geographical nature which cannot be determined by examination of the tobacco.

(2) For the purpose of discovering and identifying all tobacco subject to marketing quotas the term "tobacco" with respect to any farm located in an area in which any kind of tobacco subject to marketing quotas is normally produced, shall include all acreage of tobacco on the farm. The acreage of each kind of tobacco shall be determined by the county committee on the basis of seeding, cultivating, curing, and marketing practices commonly known to the area. Such determination shall include all acreage of tobacco on the farm. The production of the acreage of each kind of tobacco so determined shall be

considered to be tobacco of the kind available for marketing until such time as the operator of the farm furnishes to the county committee satisfactory proof that a part or all of the production of such acreage has been classified pursuant to Part 29 of this title when marketed, as a different kind of tobacco. Any amount of tobacco so classified as a different kind shall be converted to acres on the basis of the average yield per acre of the entire acreage of tobacco grown on the farm in 1956 for the purpose of determining the harvested acreage of such kind of tobacco produced on the farm.

(3) Notwithstanding the foregoing definition of "tobacco" and the other provisions of §§ 727.730 to 727.762, inclusive, tobacco in hogsheads which at the close of business on September 30, 1956, is or was on such date physically in the State Tobacco Warehouse, Baltimore, Maryland, and which was produced prior to 1956, shall not be considered to be "tobacco" within the meaning of this subpart if the hogshead tobacco warehouseman has furnished a report to the ASC State committee showing the quantity of such tobacco and identifying symbols which identify each lot of such tobacco.

(z) "Tobacco available for marketing" means all tobacco produced on the farm in the calendar year 1956 plus any carry-over tobacco, less any tobacco disposed of in accordance with § 727.745.

(aa) "Tobacco subject to marketing quotas" means any Maryland tobacco marketed during the period October 1, 1956 to September 30, 1957, inclusive, and any Maryland tobacco produced in the calendar year 1956 and marketed prior to October 1, 1956.

(bb) "Trucker" means a person who engages to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually marketed by producers.

(cc) "Warehouseman" means a person who engages to any extent in the business of holding sales of tobacco at public auction at a warehouse. The term shall also include an individual, association, or firm who engages in receiving tobacco from farmers at the State Tobacco Warehouse, Baltimore, Maryland, and who assists in the sale of such tobacco through such warehouse.

(dd) "Warehouse sale" means a marketing of tobacco by a sale at public auction through a warehouse in the regular course of business, and shall include all lots or baskets marketed in sequence at a given time. The term shall also include each marketing of farm tobacco through a hogshead tobacco warehouse to a buyer other than the warehouseman and each marketing of resale tobacco through such warehouse.

§ 727.732 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions with respect to internal management as are necessary for carrying out the regulations in this part. The forms and instructions shall be approved by,

and the instructions shall be issued by the Deputy Administrator.

§ 727.733 *Extent of calculations and rule of fractions.* (a) The acreage of tobacco harvested on a farm in 1956 shall be expressed in hundredths and fractions of less than one hundredth of an acre shall be dropped. For example, 4.550, 4.555 or 4.559 acres would be 4.55 acres.

(b) The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess," shall be expressed in tenths and fractions of less than one-tenth shall be dropped. For example, 12.59 percent would be 12.5 percent.

(c) The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty," shall be expressed in tenths of a cent and fractions of less than a tenth shall be dropped, except that if the resulting converted rate of penalty is less than a tenth of a cent, it shall be expressed in hundredths and fractions of less than a hundredth shall be dropped. For example, 3.68 cents per pound would be 3.6 cents and 0.068 cent per pound would be 0.06 cent.

IDENTIFICATION AND LOCATION OF FARMS AND DETERMINATION OF ACREAGE

§ 727.734 *Identification and location of farms.* (a) Each farm as operated for the 1956 crop of tobacco shall be identified by a farm serial number assigned by the county office manager and all records pertaining to marketing quotas for the 1956 crop of tobacco shall be identified by such number.

(b) A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

§ 727.735 *Determination of tobacco acreage.* (a) *County committees.* For the purpose of ascertaining with respect to each farm whether there is excess tobacco of the 1956 crop available for marketing, the county committee shall determine the acreage of tobacco on each farm in the county for which a 1956 tobacco acreage allotment has been established and on any other farms in the county on which the county committee has reason to believe tobacco was planted. The county committee's determination shall be based upon a measurement of the acreage made by identification of fields or parts of fields by use of a map, aerial photography, or by means of a steel or metallic tape or chain, or rod and chain, or by use of a measurement wheel when authorized by the Deputy Administrator or by a combination of one or more of these methods. Such measurement shall be made by an employee of the county committee who has been designated as a reporter and determined by the county office manager to be qualified to carry out the duties of a reporter. The reporter shall visit each farm assigned to him for measurement and enter thereon if such entry will facilitate measurement. The county committee may at any time redetermine the

tobacco acreage for any farm and shall, at the request of the State committee, make a redetermination of tobacco acreage for any farm. Such redetermination of tobacco acreage shall supersede any prior determination of tobacco acreage for the farm. A redetermination of tobacco acreage shall be based on measurements made in the manner provided for in this paragraph by either a reporter, county office manager, county performance supervisor, or any other employees of the ASC State office who are determined by the State administrative officer to be qualified to perform such measurements. In connection with any measurement of tobacco acreage for any farm made as provided in this paragraph, rechecks and spot checks of such measurements may be made by any of the county and State office employees authorized in this paragraph to perform measurements of farm tobacco acreage.

(b) *Farm operators.* The farm operator or his representative or any producer, at the reporter's request for such information or assistance, shall designate all fields on the farm being utilized for growing tobacco and may assist in measuring the farm, the acreage of cropland in the farm, or the acreage of tobacco being grown on the farm.

(c) *Notice to farm operators.* The county committee shall notify the farm operator of the measured acreage of tobacco on each farm as determined under the provisions of this section.

(d) *Harvested acreage of tobacco.* The acreage of tobacco determined or as redetermined for a farm by the county committee pursuant to this section shall be the harvested acreage of tobacco for the farm for the purpose of issuing the correct marketing card for the farm as provided in § 727.738 unless the farm operator furnishes to the county committee satisfactory proof that a portion of the acreage planted will not be harvested or that a representative portion of the production of the acreage physically harvested will be disposed of other than by marketing, in which case the harvested acreage shall be the acreage as adjusted by taking into account the portion of the acreage planted which will not be harvested or the portion of the production of the acreage physically harvested which will be disposed of other than by marketing.

(e) *Acreage not determined.* If the farm operator or his representative prevents the county committee from obtaining information necessary to determine the correct acreage of tobacco on a farm, in addition to any other liability which might be imposed upon the operator, and until the farm operator or his representative permits a determination of the correct acreage, all acreage of tobacco on the farm shall be deemed to be in excess of the farm acreage allotment for the purpose of issuing a marketing card for the farm.

(f) *Prior measurements.* Measurements made prior to the effective date of this section, and in accordance with procedures then in effect may be utilized where pertinent for the purpose of ascertaining with respect to any farm the 1956 tobacco acreage and the tobacco

acreage in excess of the 1956 farm tobacco acreage allotment.

FARM MARKETING QUOTAS AND MARKETING CARDS

§ 727.736 Amount of farm marketing quota. (a) The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment, as established for the farm in accordance with §§ 727.711 to 727.728, 1023 (Maryland-56)-1, Maryland Tobacco Marketing Quota Regulations, 1956-57 (20 F. R. 6069). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1956 times the farm acreage allotment.

(b) The excess tobacco on any farm during the 1956-57 marketing year shall be that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1956 times the number of acres harvested in excess of the 1956 farm acreage allotment. (The excess tobacco on any farm during the 1957-58 marketing year will be (1) that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1957 times the number of acres harvested in excess of the 1957 farm acreage allotment, plus (2) any excess carry-over tobacco for the farm.)

§ 727.737 Transfer of farm marketing quota. There shall be no transfer of farm marketing quotas except as provided in §§ 727.720 and 727.726 of the Maryland tobacco marketing quota regulations for determining acreage allotments and normal yields, 1956-57 marketing year.

§ 727.738 Issuance of marketing cards.

(a) A marketing card shall be issued for each farm having 1956 crop tobacco available for marketing. Subject to the approval of the county office manager or the State administrative officer as provided in § 727.739, two or more marketing cards may be issued for any farm for use in marketing 1956 crop tobacco produced on the farm. All entries on each marketing card shall be made in accordance with the instructions for issuing marketing cards. Upon the return to the ASC Issuing Office of the marketing card issued with respect to the 1956 crop after all of the memoranda of sale have been issued therefrom and before the marketing of the 1956 crop tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm for use in marketing 1956 crop tobacco produced on the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the State administrative officer or the county office manager, who issued the card, to have been lost, destroyed or stolen.

(b) A marketing card shall be issued for each farm having carry-over tobacco available for marketing. Such card shall be marked "Carry-over", shall show the number of pounds and location of such carry-over tobacco as of October 1, 1956, and shall be signed by the farm operator.

Subject to the approval of the county office manager or the State administrative officer as provided in § 727.739, two or more marketing cards, so marked and signed, may be issued for any farm for use in marketing carry-over tobacco. All entries on each marketing card shall be made in accordance with the instructions for issuing marketing cards. Upon the return to the issuing office of the marketing card issued with respect to carry-over tobacco after all of the memoranda of sale have been issued therefrom and before the marketing of the carry-over tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm for use in marketing carry-over tobacco from the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the county office manager or State administrative officer who issued the card to have been lost, destroyed or stolen.

(c) **Within quota marketing card (MQ-76-Tobacco).** A Within Quota Marketing Card authorizing price support loans and the marketing without penalty of the 1956 crop tobacco available for marketing shall be issued for a farm under the following conditions:

(i) If the harvested acreage of tobacco for the farm in 1956 is not in excess of the farm acreage allotment therefor and any excess carry-over tobacco can be marketed without penalty under the provisions of § 727.744 (b) except that if:

(i) More than one kind of tobacco is produced on a farm in 1956 a "zero percent" excess marketing card (ineligible for price support loans) shall be issued for each kind of tobacco for which the harvested acreage is not in excess of the farm acreage allotment if at the time of issuing marketing cards for the farm the harvested acreage of any kind is in excess of the farm acreage allotment;

(ii) For any kind of tobacco produced on a farm in 1956 the acreage of which is in excess of the allotment and the operator or any other producer on the farm fails to file with the county ASC office a written request (with deposit to cover the cost as estimated by the county committee) to dispose of the excess tobacco acreage or to have a remeasurement made of the tobacco acreage within ten (10) days from the date of notice to the farm operator on Form CSS-595—Tobacco, Notice of Excess Tobacco Acreage, a "zero percent" excess marketing card shall be issued for each such kind of tobacco even though the excess acreage is disposed of other than by marketing unless the county committee with the approval of a representative of the State committee determines that the failure to file such written request was due to circumstances beyond the control of the farm operator or producer; or

(iii) Any tobacco is physically harvested from a farm in 1956 from an acreage in excess of the allotment for the farm and even though it is disposed of in accordance with § 727.745 (a), a "zero percent" excess marketing card shall be issued for each such kind of tobacco, unless the county committee

with the approval of a representative of the State committee determines that the acreage of tobacco was not measured in sufficient time to afford the farm operator an opportunity to dispose of the excess acreage prior to harvest.

(2) If the Director of a publicly-owned Agricultural Experiment Station furnishes to the ASC State office a list by counties showing with respect to each kind of tobacco and farm on which tobacco is grown for experimental purposes only the following:

(i) Name and address of the publicly-owned Experiment Station;

(ii) Name of the owner, and name of the operator if different from the owner, of each farm on which tobacco is grown for experimental purposes only;

(iii) The amount of acreage of tobacco grown on each farm for experimental purposes only;

(iv) A certification signed by the Director of the publicly-owned Agricultural Experiment Station to the effect that:

(a) Such acreage of tobacco was grown on each farm for experimental purposes only; (b) the tobacco was grown under his direction; and (c) that the acreage in each plot was considered necessary for carrying out the experiment.

The list required in this subparagraph shall be posted and kept available for public inspection in the ASC office of the county in which the farms included in the list are located.

(d) **Within Quota Marketing Card (MQ-76-Tobacco) marked "Carry-Over".** A Within Quota Marketing Card marked "Carry-Over" authorizing the marketing without penalty of carry-over tobacco only from the farm shall be issued for a farm with respect to which there is carry-over tobacco.

(e) **Excess Marketing Card (MQ-77-Tobacco).** An Excess Marketing Card (ineligible for price support loans) showing the extent to which marketings of 1956 crop tobacco from a farm are subject to penalty shall be issued unless a within quota marketing card is required to be issued for the farm under paragraph (c) of this section, except that if the farm operator or his representative prevents the county committee or its representative from obtaining information necessary to the issuance of the correct marketing card for the 1956 crop, an excess marketing card shall be issued showing that all the 1956 crop tobacco from the farm is subject to the rate of penalty determined by the Secretary pursuant to § 727.747.

§ 727.739 Persons authorized to issue marketing cards. (a) The State administrative officer shall be responsible for the issuance of marketing cards for the purpose of identifying tobacco grown for experimental purposes pursuant to the provisions of § 727.738 (c) (2).

(b) Except as provided in paragraph (a) of this section the county office manager shall be responsible for the issuance of marketing cards for farms in the county.

(c) Each marketing card shall be signed either by the State administrative officer or the county office manager or in his name and on his behalf by an employee under his supervision who shall

place his initials immediately below the name of the State administrative officer or the name of the county office manager as the case may be.

§ 727.740 Rights of producers in marketing cards. Each producer having a share in the tobacco available for marketing from a farm shall be entitled to the use of the marketing card issued for the farm for marketing his proportionate share.

§ 727.741 Successors in interest. Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from a farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 727.742 Invalid cards. (a) A marketing card shall be invalid if:

- (1) It is not issued or delivered in the form and manner prescribed;
- (2) Entries are omitted or incorrect;
- (3) It is lost, destroyed, stolen, or becomes illegible; or
- (4) Any erasure or alteration has been made, and not properly initialed.

(b) In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or by omission, alteration or incorrect entry which cannot be corrected by a field assistant), the farm operator, or the person having the card in his possession, shall return it to the ASC county office at which it was issued.

(c) If any entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by a field assistant, then such card shall become valid.

§ 727.743 Report of misuse of marketing card. Any information which causes a field assistant, a member of a State, county, or community committee, or an employee of an ASC State or county office, to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the ASC county or State office.

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

§ 727.744 Extent to which marketings from a farm are subject to penalty.

(a) Marketings of 1956 crop tobacco from a farm shall be subject to penalty by the percent excess determined as follows: Divide the acreage of tobacco harvested in excess of the farm acreage allotment and not disposed of under § 727.745 by the total acreage of tobacco harvested from the farm.

(b) For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the rate of penalty determined by the Secretary pursuant to § 727.747 by the percent excess obtained under paragraph (a) of this section. The memorandum of sale issued to identify each such marketing shall show the amount of penalty due.

§ 727.745 Disposition of excess tobacco. The farm operator may elect to give satisfactory proof of disposition of excess tobacco prior to the marketing of any 1956 crop tobacco from the farm by furnishing to the county committee satisfactory proof that excess tobacco representative of the entire crop will not be marketed.

§ 727.746 Identification of marketings. Each marketing of tobacco from a farm shall be identified by an executed memorandum of sale from the 1956 marketing card (MQ-76—Tobacco or MQ-77—Tobacco) issued for the farm on which the tobacco was produced. In addition, in the case of nonwarehouse sales, each marketing shall also be identified by an executed bill of nonwarehouse sale (reverse side of memorandum of sale). A separate memorandum from a marketing card marked "Carry-over" issued for the farm shall be executed with respect to each marketing of tobacco produced prior to 1956, and the words "old crop" will be entered by the warehouseman or buyer on each such memorandum executed with respect to a marketing of tobacco produced prior to 1956.

(a) **Memorandum of sale.** (1) If a memorandum of sale is not executed to identify a warehouse sale of producer's tobacco by the end of the sale day on which the tobacco was marketed, the marketing shall be a suspended sale, and, unless a memorandum identifying the tobacco so marketed is executed on or before the last warehouse sale day of the marketing season, or within four weeks after the date of marketing, whichever comes first, the marketing shall be identified by MQ-82—Tobacco, Sale Without Marketing Card, as a marketing of excess tobacco. The memorandum of sale or MQ-82—Tobacco shall be executed only by a field assistant or other representative of the State administrative officer with the following exceptions:

(i) A warehouseman, or his representative, who has been authorized on MQ-78—Tobacco, may issue a memorandum of sale to identify a warehouse sale if a field assistant is not available at the warehouse when the marketing card is presented. Each memorandum of sale issued by a warehouseman to cover a warehouse sale shall be presented promptly by him to the field assistant for verification with the warehouse records.

(ii) A tobacco dealer who buys tobacco direct from farmers, who resells such tobacco through a hogshead tobacco warehouse and who keeps records showing the information specified in § 727.754, and who has been authorized on MQ-78—Tobacco to issue memoranda of sale, may issue a memorandum of sale covering a purchase of such tobacco only if the bill of nonwarehouse sale has been executed. Such dealer may also execute MQ-82—Tobacco, where applicable, under the circumstances specified in this section.

(2) The authorization on MQ-78—Tobacco to issue memoranda of sale may be withdrawn by the State administrative officer from any or all persons so authorized if such action is determined to be necessary in order to properly en-

force the provisions of §§ 727.730 to 727.762. The authorization shall terminate upon receipt of written notice setting forth the reason therefor.

(3) Each excess memorandum of sale issued by a field assistant shall be verified by a warehouseman or dealer (or his representative) to determine whether the amount of penalty shown to be due has been correctly computed and such warehouseman or dealer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in executing the memorandum of sale.

(b) **Bill of nonwarehouse sale.** (1) Each nonwarehouse sale shall be identified by a bill of nonwarehouse sale completely executed by the buyer and the farm operator.

(2) Each bill of nonwarehouse sale covering any marketing (except as described under paragraph (a) (1) (ii) of this section) shall be presented to a field assistant for the issuance of a memorandum of sale and for recording in MQ-79—Tobacco.

§ 727.747 Rate of penalty. (a) The penalty per pound upon marketings of excess tobacco subject to marketing quotas shall be seventy-five (75) percent of the average market price (calculated to the nearest whole cent) for Maryland tobacco for the 1955-56 marketing year, as determined by the Crop Reporting Board, Agricultural Marketing Service, United States Department of Agriculture. The rate of penalty per pound shall be calculated to the nearest whole cent.

(b) **Proportional rate of penalty.** With respect to tobacco marketed from farms having excess tobacco available for marketing, the penalty shall be paid upon that percentage of each lot of 1956 crop tobacco marketed which the 1956 crop tobacco available for marketing in excess of the farm marketing quota is of the total amount of 1956 crop tobacco available for marketing from the farm, as determined under § 727.744.

§ 727.748 Persons to pay penalty. The person to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) **Warehouse sale.** The penalty due on marketings by a producer through a warehouse shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) **Nonwarehouse sale.** The penalty due on tobacco purchased directly from a producer other than (1) by sale at public auction through a warehouse, or (2) by sale through a hogshead tobacco warehouse to a buyer other than the warehouseman, in the regular course of business, shall be paid by the purchaser of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) **Marketings through an agent.** The penalty due on marketings by a producer through an agent who is not a warehouseman shall be paid by the agent who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Marketings outside the United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 727.749 *Marketings deemed to be excess tobacco.* Any marketing of tobacco under any one of the following conditions shall be deemed to be a marketing of excess tobacco:

(a) *Warehouse sale.* Any warehouse sale of tobacco by a producer which is not identified by a valid memorandum of sale on or before the last warehouse sale day of the marketing season or within four weeks following the date of marketing, whichever comes first, shall be identified by a MQ-82—Tobacco, and shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(b) *Nonwarehouse sale.* Any non-warehouse sale which (1) is not identified by a valid bill of nonwarehouse sale (reverse side of memorandum of sale) and (2) is not also identified by a valid memorandum of sale and recorded in MQ-79—Tobacco within one week following the date of purchase, or, if purchased prior to the opening of the local auction markets (if the tobacco is not to be resold through a hoghead tobacco warehouse), is not identified by a valid memorandum of sale and recorded in MQ-79—Tobacco within one week following the first sale day of the local auction markets, shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the purchaser of such tobacco.

(c) *Leaf account tobacco.* The part or all of any marketing by a warehouseman which such warehouseman represents to be a leaf account resale but which when added to prior leaf account resales as reported under §§ 727.730 to 727.762 is in excess of prior leaf account purchases shall be deemed to be a marketing of excess tobacco unless and until such warehouseman furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(d) *Dealer's tobacco.* The part or all of any marketing of tobacco by a dealer which such dealer represents to be a resale but which when added to prior resales by such dealer is in excess of the total of his prior purchases as reported on MQ-79—Tobacco shall be deemed to be a marketing of excess tobacco unless and until such dealer furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the dealer.

(e) *Marketings not reported.* Any resale of tobacco which under §§ 727.730 to 727.762 is required to be reported by a warehouseman or dealer but which is not so reported within the time and in the manner required by §§ 727.730 to 727.762 shall be deemed to be a marketing of excess tobacco unless and until such warehouseman or dealer furnishes a report of such resale which is acceptable to the State administrative officer. The penalty thereon shall be paid by the

warehouseman or dealer who fails to make the report as required.

(f) *Marketings falsely identified.* If any marketing of tobacco by a person other than the producer thereof is identified by a marketing card other than the marketing card issued for the farm on which such tobacco was produced, such marketing shall be deemed to be a marketing of excess tobacco and the penalty thereon shall be paid by such person.

(g) *Producer marketings.* (1) If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in 1956 in excess of the farm acreage allotment shall be deemed to have been a marketing of excess tobacco from such farm. The penalty thereon for false identification or failure to account shall be paid by the producer and shall be due on the date of the false identification or failure to account. The filing of a report by a producer under § 727.752 (c) which the State committee finds to be incomplete or incorrect shall constitute a failure to account for the disposition of tobacco produced on the farm.

(2) If, after part or all of the tobacco produced on a farm has been marketed, the State or county committee concludes that the harvested acreage for the farm was more than that shown by the prior determination any penalty due on the basis of the harvested acreage as determined pursuant to § 727.735 shall be paid by the producer.

§ 727.750 *Payment of penalty.* (a) Penalties shall become due at the time the tobacco is marketed, except in the case of false identification or failure to account for disposition in which case penalty shall be due on the date of such false identification or failure to account for disposition. Penalty shall be paid by remitting the amount thereof to the ASC State Office not later than the end of the calendar week following the week in which the tobacco became subject to penalty. A draft, money order, or check drawn payable to the Treasurer of the United States may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) If the penalty due on any warehouse sale of tobacco by a producer as determined under §§ 727.730 to 727.762 is in excess of the net proceeds of such sale (gross amount for all lots included in the sale less usual warehouse charges), the amount of the net proceeds accompanied by a copy of the warehouse bill covering such sale may be remitted as the full penalty due. Usual warehouse charges shall not include (1) advances to producers, (2) charges for hauling, or (3) any other charges not usually incurred by producers in marketing tobacco through a warehouse.

(c) *Nonwarehouse sales.* Including sales of scrap tobacco, shall be subject to the converted rate of penalty for the farm on which the tobacco was produced without regard to the net proceeds of the sale.

§ 727.751 *Request for return of penalty.* Any producer of tobacco after the marketing of all tobacco available for

marketing from the farm and any other person who bore the burden of the payment of any penalty may request the return of the amount of such penalty which is in excess of the amount required under §§ 727.730 to 727.762 to be paid. Such request shall be filed on MQ-85—Tobacco with the ASC county office within two (2) years after the payment of the penalty.

RECORDS AND REPORTS

§ 727.752 *Producer's records and reports.* (a) *Report of tobacco acreage.* The farm operator or his representative shall execute and file a report with the ASC county office or a representative of the county committee on Form CSS-578, Report of 1956 Acreage, showing all fields of tobacco on the farm in 1956. If any producer on a farm files or aids or acquiesces in the filing of any false report with respect to the acreage of tobacco grown on the farm, even though the farm operator or his representative refuses to sign such report, the allotment next established for such farm and kind of tobacco shall be reduced as provided in the Maryland tobacco marketing quota regulations for determining acreage allotments and normal yields, 1957-58 marketing year.

(b) *Report on marketing card.* The operator of each farm on which tobacco is produced in 1956 or for which a marketing card is issued, shall return to the ASC county office each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than October 1, 1957. Failure to return the marketing card within fifteen (15) days after written request by certified mail from the county office manager shall constitute failure to account for disposition of tobacco marketed from the farm and in the event that a satisfactory account of such disposition is not furnished otherwise to the county committee, the allotment next established for such farm shall be reduced as provided in the Maryland tobacco marketing quota regulations for determining acreage allotments and normal yields, 1957-58 marketing year.

(c) *Report of production and disposition.* In addition to any other reports which may be required under §§ 727.730 to 727.762, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall upon written request by certified mail from the State administrative officer within fifteen (15) days after the deposit of such request in the United States mails, addressed to such person at his last known address, furnish the Secretary on form MQ-108—Tobacco a written report of the acreage, production, and disposition of all tobacco produced on the farm by sending the same to the ASC State office showing, as to the farm at the time of filing said report: (1) The number of fields (patches or areas) from which tobacco was harvested, the acres of tobacco harvested from each such field, and the total acreage of tobacco harvested from the farm, (2) the total pounds of tobacco

produced, (3) the amount of tobacco on hand and its location, and (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of the marketing. Failure to file the report as requested or the filing of a report which is found by the State committee to be incomplete or incorrect shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm shall be reduced as provided in the Maryland tobacco marketing quota regulations for determining acreage allotments and normal yields, 1957-58 marketing year.

§ 727.753 Warehouseman's records and reports—(a) Record of marketing. (1) Each warehouseman shall keep such records as will enable him to furnish the ASC State office with respect to each warehouse sale of tobacco made at his warehouse the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the seller in the case of a sale by a producer, and in the case of a resale the name of the seller.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) Gross sale price.

(v) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s);

and in addition with respect to each individual basket or lot of tobacco constituting the warehouse sale the following information:

(vi) Name of purchaser.

(vii) Number of pounds sold.

(viii) Gross sale price.

(2) Records of all purchases and resales of tobacco by the warehouseman shall be maintained to show a separate account for:

(i) Nonwarehouse sales by farmers of tobacco purchased by or on behalf of the warehouseman.

(ii) Purchases and resales for the warehouse leaf account.

(iii) Resales of floor sweepings.

(iv) Resales of pick-ups (subparagraphs (1) and (2) of § 727.731 (p)).

(3) Any warehouseman or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the ASC State office the name of the farm operator and the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

(4) In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse records so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register (or ledger account in case of a sale through a hogshead tobacco warehouse).* The serial number of the memorandum of sale issued to identify each warehouse sale by a producer or the serial number of the warehouse bill(s) covering each such sale shall be recorded on the check register or check stub for

the check written with respect to such sale of tobacco (or on the ledger account in the case of a sale through a hogshead tobacco warehouse).

(c) *Memorandum of sale and bill of nonwarehouse sale.* A record in the form of a valid memorandum of sale or an MQ-82—Tobacco, Sale Without Marketing Card, shall be obtained by a warehouseman to cover each marketing of tobacco from a farm through the warehouse and each nonwarehouse sale of tobacco purchased by or for the warehouseman. For a nonwarehouse sale of tobacco purchased by or for a warehouseman, no memorandum of sale shall be issued unless the bill of nonwarehouse sale on the reverse side of the memorandum of sale is executed. Any warehouseman who obtains possession of any scrap tobacco in the course of grading tobacco from any farm shall obtain a bill of nonwarehouse sale and a memorandum of sale to cover the amount of such scrap.

(d) *Suspended sale record.* Any warehouse bills covering farm tobacco for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills "suspended," write thereon the serial number of the suspended sale, and, if the warehouse is not a hogshead warehouse, record the bills on MQ-83—Tobacco, Field Assistant's Report: *Provided*, That if a field assistant is not available, the warehouseman may stamp such bills "Suspended" and deliver them to a field assistant when one is available.

(e) *Warehouse entries on dealer's record.* Each warehouseman, other than a hogshead tobacco warehouseman, shall record on MQ-79—Tobacco the total purchases and resales made by each dealer or other warehouseman during each sale day at the warehouse and enter his initials in the space provided. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1956, the entry on MQ-79—Tobacco shall clearly show such fact.

(f) *Record and report of purchases and resales.* Each warehouseman shall keep a record and make reports on MQ-79—Tobacco, Dealer's Record, showing:

(1) All purchases, by or for the warehouse, of tobacco directly from producers other than at public auction through a warehouse (nonwarehouse sales) (also including, in the case of a hogshead tobacco warehouseman, purchases at the hogshead tobacco warehouse by or for such warehouseman at auction from producers).

(2) All purchases and resales, by or for the warehouse, of tobacco at public auction through warehouses other than his own.

(3) All purchases, by or for the warehouse, of tobacco from dealers other than warehousemen and resales, by or for the warehouse, of tobacco to dealers other than warehousemen.

(g) *Season report of warehouse business.* (1) Each warehouseman, other than a hogshead tobacco warehouseman, shall furnish the ASC State office not later than thirty (30) days following the last sale day of the marketing season a

report on MQ-80—Tobacco, Auction Warehouse Report, showing:

(i) For each dealer or buyer, as originally billed, the total pounds and gross amount of tobacco purchased and resold on the warehouse floor;

(ii) The total pounds and gross amount of "loan tobacco" billed to any association;

(iii) The total pounds and gross amount of all leaf account tobacco purchased and resold and of all pick-ups (§ 727.731 (p) (1) or (2)), or floor sweepings sold by the warehouseman at public auction over his own warehouse floor;

(iv) The pounds and estimated value of all tobacco on hand at the time of filing the report and whether such tobacco represents leaf account tobacco, pick-ups (§ 727.731 (p) (1) or (2)), or floor sweepings;

(v) The total pounds and gross amount of all tobacco purchased directly from farmers other than at public auction through a warehouse; and

(vi) The total pounds and gross amount of all purchases over other warehouse floors or from dealers other than warehousemen, and all resales over other warehouse floors or to dealers other than warehousemen. A hogshead tobacco warehouseman, also, shall report all leaf account tobacco purchased or sold and all floor sweepings and pick-ups sold, if any, through the warehouse.

(2) A hogshead tobacco warehouseman shall submit weekly reports (each such report to be submitted not later than the end of the calendar week following the week during which the transactions occurred) to the ASC State office including for each buyer who purchased tobacco (and any association to which any "loan" tobacco was consigned) through the warehouse during the week for which the report is submitted, a copy of the bill-out to the buyer (or association) together with the following:

(i) Name of farm operator (and name of seller if different from operator) for each sale of farm tobacco.

(ii) Farm serial number of the farm for each sale of farm tobacco.

(iii) Serial number of memorandum of sale or memorandum of sale without marketing card executed with respect to each sale of farm tobacco.

(iv) Date of sale (or date of consignment to loan association).

(v) Hogshead serial number.

(vi) Number of pounds of tobacco in the hogshead.

(vii) Designation as to whether the tobacco in the hogshead was produced in 1956 or in a year prior to 1956.

(viii) A memorandum of sale or a memorandum of sale without marketing card for each sale of farm tobacco produced in 1956, and a memorandum of sale or a memorandum of sale without marketing card for each sale of farm tobacco produced prior to 1956.

(ix) A remittance of the penalty due as shown on all memoranda of sale and memoranda of sale without marketing card.

(x) Designation by the word "resale" and the name of the person reselling the tobacco entered on the bill-out for to-

bacco resold through the hogshead warehouse.

(h) *Report of Penalties.* Each warehouseman, other than a hogshead tobacco warehouseman, shall make reports on MQ-81—Tobacco, Report of Penalties, showing for each sale of tobacco subject to penalty (1) the name of the farm operator; (2) the memorandum number; (3) the name of the county in which the farm is located; (4) the farm serial number; (5) the number of pounds sold; (6) the applicable converted rate of penalty; and (7) the amount of penalty due on each such sale. MQ-81—Tobacco shall be prepared for each week and forwarded together with remittance of the penalty due as shown thereon to the ASC State office not later than the end of the calendar week following the week in which the tobacco became subject to penalty.

(i) *Report of resales.* Each warehouseman, other than a hogshead tobacco warehouseman, shall make reports on MQ-86—Tobacco, Report of Resales, showing for each resale of tobacco at auction on the warehouse floor (1) the warehouse bill number; (2) the name on the warehouse bill; (3) the name of the seller, or in the case of a resale for the warehouse, whether such resale represents leaf account tobacco, pick-ups, or floor sweepings; (4) the registration number and State of the person making the resale; (5) the number of pounds sold; and (6) the gross amount for the sale. MQ-86—Tobacco shall be prepared for each sale day and forwarded to the ASC State office not later than the end of the calendar week following the week in which the tobacco was resold.

(j) *Additional records and reports by warehousemen.* Each warehouseman shall keep such records and furnish such reports to the ASC State office in addition to the foregoing, as the State administrative officer may find necessary to insure the proper identification of the marketings of tobacco and the collection of penalties due thereon as provided in §§ 727.730 to 727.762.

§ 727.754 *Dealer's records and reports.* Each dealer, except as provided in § 727.755 shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the field assistant (or the dealer, if the tobacco is to be marketed through a hogshead tobacco warehouse) shall detach and forward to the ASC State office "Receipt for Dealer's Record" contained in MQ-79—Tobacco which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a record and make reports on MQ-79—Tobacco, Dealer's Record, showing all purchases and resales of tobacco made by or for the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1956, the fact that such tobacco was bought by him from a crop produced prior to 1956.

(c) *Report of penalties.* Each dealer, unless the tobacco is to be marketed through a hogshead tobacco warehouse,

shall make a report on MQ-81—Tobacco, Report of Penalties, showing for each purchase, other than by warehouse sale, of tobacco subject to penalty (1) the name of the farm operator; (2) the memorandum number; (3) the name of the county in which the farm is located; (4) the farm serial number; (5) the number of pounds purchased; (6) the applicable converted rate of penalty; and (7) the amount of penalty due on each such purchase. MQ-81—Tobacco shall be prepared for each week and forwarded together with remittance of the penalty due as shown thereon to the ASC State office not later than the end of the calendar week following the week in which the tobacco became subject to penalty. A dealer who purchases tobacco which is to be marketed through a hogshead tobacco warehouse shall remit the penalty with his reports on MQ-79—Tobacco, Dealer's Record, together with memoranda of sale and memoranda of sale without marketing card to the ASC State office not later than the end of the calendar week following the week during which he purchased the tobacco.

(d) *Memorandum of sale and bill of nonwarehouse sale.* (1) A bill of nonwarehouse sale and a memorandum of sale from the 1956 marketing card issued for the farm on which the tobacco was produced shall be obtained by a dealer to cover each purchase of tobacco directly from a producer other than at auction through a warehouse. No memorandum of sale shall be issued identifying such purchase unless the bill of nonwarehouse sale on the reverse side of the memorandum of sale has been executed.

(2) Any dealer who acquires scrap tobacco from any farm shall obtain a bill of nonwarehouse sale and a memorandum of sale to cover the amount of such scrap tobacco.

(e) *Additional records.* Each dealer shall keep such records in addition to the foregoing as will enable him to furnish the ASC State office with respect to each lot of tobacco purchased by him the following information:

(1) The name of the warehouse through which the tobacco was purchased in the case of a warehouse sale; the name of the operator of the farm on which the tobacco was produced and the name of the seller in the case of a nonwarehouse sale; and the name of the seller in the case of purchases directly from warehousemen or other dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Gross purchase price.

(5) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s);

and with respect to each lot of tobacco sold by him the following information:

(6) Name of the warehouse through which the tobacco was sold in the case of a warehouse sale, and the name of the purchaser if other than a warehouse sale.

(7) Date of sale.

(8) Number of pounds sold.

(9) Gross sale price.

(10) In the event of a resale of tobacco bought by him and carried over from a crop produced prior to 1956, the fact that such tobacco was bought by him from a crop produced prior to 1956.

(f) *Forwarding of reports.* All reports shall be forwarded to the ASC State office not later than the end of the week following the calendar week covered by the reports.

§ 727.755 *Dealers exempt from regular records and reports.* Any dealer or buyer who does not purchase or otherwise acquire tobacco except at warehouse sales, or directly from dealers other than warehousemen, and who does not resell in the form in which tobacco ordinarily is sold by farmers more than 10 percent of such tobacco so purchased by him shall not be subject to the provisions of § 727.754. *Provided, however,* That any such dealer or buyer who purchases tobacco at nonwarehouse sale, or from a warehouseman other than at warehouse sale, shall be subject to the provisions of § 727.754 with respect to such purchases. Each such dealer or buyer shall make such reports to the State administrative officer, in addition to the foregoing, as he may find necessary to enforce §§ 727.730 to 727.762.

§ 727.756 *Records and reports of truckers and persons redrying, prizing or stemming tobacco.* (a) Each person engaged to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually marketed by producers shall keep such records as will enable him to furnish the ASC State office a report with respect to each lot of tobacco received by him showing:

(1) The name and address of the producer,

(2) The date of receipt of the tobacco,

(3) The number of pounds received, and

(4) The name and address of the person to whom it was delivered.

(b) Each person engaged to any extent in the business of redrying, prizing or stemming tobacco for producers shall keep such records as will enable him to furnish the Director a report showing:

(1) The information required above for truckers, and in addition,

(2) The purpose for which the tobacco was received,

(3) The amount of advance made by him on the tobacco, and

(4) The disposition of the tobacco.

§ 727.757 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, trucker, or as a person engaged in the business of redrying, prizing or stemming tobacco for producers and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged in no other business.

§ 727.758 *Failure to keep records or make reports.* Any warehouseman,

dealer, trucker, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, who fails to make any report or keep any record as required under §§ 727.730 to 727.762, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under §§ 727.730 to 727.762 within fifteen days after notice to him of such violation shall be subject to an additional fine of \$100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation; *Provided*, That such fine shall not exceed \$5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him or both. Notice of any violation by a warehouseman, dealer or trucker shall be given by the State Administrative Officer and notice of violation by a person engaged in the business of redrying, prizing or stemming tobacco for producers shall be given by the Director.

§ 727.759 *Additional records and reports to Director.* Any warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing or stemming tobacco for producers shall, in addition to any records required to be kept or any reports required to be made under §§ 727.730 to 727.762, keep such records and make such reports to the Director as he may find necessary to enforce §§ 727.730 to 727.762.

§ 727.760 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report but not so furnished, any warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing or stemming tobacco for producers shall make available for examination by employees of the ASC State office, and by employees of the Compliance and Investigation Division, Audit Division, and of the Tobacco Division of the Commodity Stabilization Service, United States Department of Agriculture, upon written request by the State administrative officer or Director, such books, paper, records, accounts, cancelled checks, correspondence, contracts, documents, and memoranda as the State administrative officer or Director has reason to believe are relevant and are within the control of such person.

§ 727.761 *Length of time records and reports are to be kept.* Records required to be kept and copies of the reports required to be made by any person under §§ 727.730 to 727.762 for the 1956-57 marketing year shall be kept by him until September 30, 1959. Records shall be kept for such longer period of time as may be requested in writing by the State administrative officer or the Director.

§ 727.762 *Information confidential.* All data reported to or acquired by the Secretary pursuant to the provisions of §§ 727.730 to 727.762 shall be kept confidential by all officers and employees of the United States Department of Agriculture and by all members of county and community committees and all ASC county office employees and only such data so reported or acquired as the Deputy Administrator deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the act.

Note: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 16th day of August 1956. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[P. R. Doc. 56-6746; Filed, Aug. 20, 1956; 8:51 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Lemon Reg. 654, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 19 F. R. 7175; 20 F. R. 2913; 21 F. R. 4393), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in the State of

California or in the State of Arizona.

Order, as amended. The provisions in paragraph (b) (1) (ii) of § 953.761 (Lemon Regulation 654; 21 F. R. 6010) are hereby amended to read as follows:

(ii) District 2: 325,500 cartons.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 16, 1956.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Marketing
Service.

[P. R. Doc. 56-6740; Filed, Aug. 20, 1956; 8:50 a. m.]

PART 958—IRISH POTATOES GROWN IN COLORADO

LIMITATION OF SHIPMENTS

§ 958.322 *Limitation of shipments—*
(a) *Findings.* (1) Pursuant to Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958), regulating the handling of Irish potatoes grown in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the area committee for Area No. 2, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, that would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted under the circumstances, for such preparation, and (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area.

(b) *Order.* (1) During the period from August 23, 1956, through June 30, 1957, no handler shall ship (i) any potatoes of the round varieties grown in Area No. 2 unless such potatoes meet the requirements of the U. S. No. 2, or better, grade, Size A, 2 1/4 inches minimum diameter or (ii) any potatoes of the long varieties grown in Area No. 2 unless such

potatoes meet the requirement of the U. S. No. 2, or better grade, and are of a size not less than $2\frac{1}{8}$ inches minimum diameter or 4 ounces minimum weight, as such terms are defined in the United States Standards for Potatoes (§§ 51.1540 to 51.1559 of this title), including the tolerances set forth therein.

(2) During the period from August 23, 1956, through October 8, 1956, and subject to the requirements set forth in subparagraph (1) of this paragraph, no handler shall ship any lot of potatoes (i) of the Russet Burbank or Red McClure variety grown in Area No. 2 if such potatoes are more than "slightly skinned" as such term is defined in said United States Standards, which means that not more than 10 percent of such potatoes have more than one-fourth of the skin missing or "feathered," and (ii) of any other varieties grown in Area No. 2 if such potatoes are more than "moderately skinned" as such term is defined in the said United States Standards which means that not more than 10 percent of such potatoes have more than one-half of the skin missing or "feathered."

(3) Terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97 and Order No. 58.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 17, 1956.

[SEAL]

S. R. SMITH,
Director,

Fruit and Vegetable Division.

[F. R. Doc. 56-6777; Filed, Aug. 20, 1956; 8:54 a. m.]

[Avocado Order 9, Amdt. 4]

PART 969—AVOCADOS GROWN IN SOUTH FLORIDA

CONTAINER REGULATION

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 89, as amended (7 CFR Part 969), regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation of the Avocado Administrative Committee, established under the aforesaid amended marketing agreement and order, it is hereby found that the limitation of handling avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the

declared policy of the act is insufficient; and this amendment relieves restriction on the handling of avocados.

It is ordered, That subparagraph (1) of paragraph (b) of § 969.309, as amended (Avocado Order 9, as amended; 21 F. R. 4514) is further amended by adding at the end thereof a new subdivision (vi) reading as follows:

(vi) Fiberboard cartons, with inside dimensions $13\frac{1}{2}$ by $16\frac{1}{2}$ by $4\frac{1}{2}$ inches: *Provided*, That the avocados in such container shall be packed in one layer only.

Effective time. The provisions of this amendment shall become effective at 12:01 a. m., e. s. t., August 22, 1956.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 17, 1956.

[SEAL]

S. R. SMITH,
Director,

Fruit and Vegetable Division.

[F. R. Doc. 56-6776; Filed, Aug. 20, 1956; 8:54 a. m.]

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter A—Board of Governors of the Federal Reserve System

[Reg. Q]

PART 217—PAYMENT OF INTEREST ON DEPOSITS

INTEREST ON TIME DEPOSITS WITH ALTERNATE MATURITIES

§ 217.112 *Interest on time deposits with alternate maturities.* (a) The Board was asked recently whether four forms of time deposit contracts complied with the requirements of this part. The first was evidenced by a certificate which provided for a maturity 6 months after date of deposit with an option on the part of the depositor to withdraw part or all of the funds, without notice, on the 30th day after the date of deposit, or on the 90th day after the date of deposit, and which provided that funds withdrawn on the 30th day would bear interest at a rate of 1 percent, funds withdrawn on the 90th day would bear interest at a rate of 2 percent, and funds withdrawn at the end of 6 months would bear interest at a rate of $2\frac{1}{2}$ percent.

(b) With respect to the form of certificate in paragraph (a) of this section, the Board referred to its interpretation published as § 217.105 which expressed the view that if a time certificate permits withdrawal either at a specified maturity or prior to such time after a specified period of written notice, the maximum rate of interest will depend upon which of such withdrawal privileges is elected by the depositor and the maximum rate applicable under the regulation in the circumstances of the withdrawal privilege so elected. For example, a certificate providing for payment 5 years after date with interest at $2\frac{1}{2}$ percent, but providing also for earlier payment after 90 days' written notice with interest at 2 percent, would comply with

the regulation. Such a certificate has a single fixed maturity but provides that an earlier maturity may be fixed at the option of the depositor with a resulting reduction in the rate of interest payable.

(c) The Board pointed out that, by contrast, the certificate described in paragraph (a) of this section had several fixed maturities, the first of which was 30 days after date of deposit, so that the deposit when established was payable 30 days after date. Section 217.6 provides that no member bank shall pay interest at a rate in excess of 1 percent per annum on a time deposit having a maturity date less than 90 days after the date of deposit or payable upon written notice of less than 90 days. The Board said that, consequently, the 2 percent and $2\frac{1}{2}$ percent rates of interest provided for under the form of time certificate described in paragraph (a) of this section would be in excess of the maximum rates prescribed by this part.

(d) The second deposit contract on which the Board's views were requested was a 6 months' time deposit with interest at a rate of $2\frac{1}{4}$ percent but with an alternate fixed maturity of 90 days after date with interest at 2 percent. The third contract represented a deposit payable 11 months after date with interest at a rate of $2\frac{3}{8}$ percent but with alternate fixed maturities of 90 days, 4 months, and 5 months, with interest at 2 percent; 6, 7, and 8 months, with interest at $2\frac{1}{4}$ percent; and 9 and 10 months with interest at $2\frac{3}{8}$ percent. The Board stated that the foregoing views expressed with respect to the form of deposit contract described in paragraph (a) of this section were applicable also to the second and third forms of contracts described in this paragraph.

(e) The fourth form of contract represented a time deposit having a fixed maturity dated 6 months after the date of deposit but with an option on the part of the depositor to withdraw a part or all of the funds either on 90 days' advance written notice at a rate of 2 percent, or on 30 days' advance written notice at a rate of 1 percent if withdrawn during the first 90 days or at a rate of 2 percent if withdrawn after the 90th day following the date of deposit. The Board said that such a contract providing for payment of interest at a rate of 2 percent on a deposit withdrawn after 30 days' written notice would not comply with this part.

(f) The Board said that in connection with all four of the forms of deposit contracts described in this section, it is important to bear in mind that the maximum permissible interest rate does not depend upon the length of time the deposit is left with the bank. Where the deposit contract provides a fixed maturity but with an option on the part of the depositor to withdraw after a prescribed period of notice, the maturity is that named in the certificate unless and until the depositor exercises his option to change that maturity, and in that event the maximum interest rate payable will be the rate applicable under the regulation with respect to the period of such notice of withdrawal given by the depositor. Where the certificate itself names alternate fixed maturities,

as in three of the certificates discussed in this section, without provision for withdrawal after notice upon the option of the depositor, the certificate must be regarded as maturing at the earliest fixed maturity and, if not withdrawn at that time or at any subsequent fixed maturity, as being automatically renewed until the date of the next following fixed maturity; and the maximum interest rate payable upon withdrawal at any fixed maturity would be the maximum rate applicable under the regulation to the period from the previous automatic renewal to the date of such withdrawal.

(Sec. 11, 38 Stat. 262; 12 U. S. C. 243. Interprets or applies secs. 19, 24, 38 Stat. 270, as amended; 273, as amended, sec. 8, 48 Stat. 168, as amended; 12 U. S. C. 371, 371a, 371b, 461)

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 56-6729; Filed Aug. 20, 1956;
8:47 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 100.294]

PART 41—VISAS: DOCUMENTATION OF NON-IMMIGRANT ALIENS UNDER THE IMMIGRATION AND NATIONALITY ACT

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT

FORMER EXCHANGE VISITORS

Parts 41 and 42 of Chapter I, Title 22 of the Code of Federal Regulations, are hereby amended in the following respects:

1. Part 41 of Chapter I, Title 22 of the Code of Federal Regulations, is amended by the addition of the following new section immediately after § 41.101:

§ 41.102 *Former exchange visitors.* (a) No alien who was admitted into the United States subsequent to June 4, 1956, as an exchange visitor, or who otherwise acquired the status of an exchange visitor subsequent to June 4, 1956, including any alien granted an extension of the period of his temporary admission subsequent to the effective date of this regulation, shall be eligible to apply for and receive a visa as a nonimmigrant under the provisions of section 101 (a) (15) (H) of the act notwithstanding the approval of a petition as provided in section 214 (c) of the act unless (1) the consular officer is satisfied that such alien has resided and been physically present abroad for an aggregate of at least two years since his departure from the United States following the termination of his exchange-visitor status in a country or countries cooperating in the exchange-visitor program, or (2) the requirements of this paragraph are waived as provided in section 201 (b) of the United States Information and Educational Exchange Act of 1948, as amended. (See paragraph (c) of § 42.42 of this chapter in cases of former exchange visitors who apply for immigrant visas.)

(b) Notwithstanding the provisions of paragraph (a) of this section, the requirement of a two-year residence and physical presence abroad shall not apply in the case of an alien who was in the United States as an exchange visitor on or before June 4, 1956, who proceeded abroad temporarily on a personal visit or for reasons related to his exchange-visitor program, and who was readmitted into the United States subsequent to June 4, 1956, for the remainder of the period of authorized stay granted prior to the effective date of this regulation to continue his participation in the exchange-visitor program with which he was connected at the time of his departure from the United States.

2. Section 42.42 is amended by the addition of the following paragraph (c) at the end thereof:

(c) *Former exchange visitors.* (1) No alien who was admitted into the United States subsequent to June 4, 1956, as an exchange visitor, or who otherwise acquired the status of an exchange visitor subsequent to June 4, 1956, including any alien granted an extension of the period of his temporary admission subsequent to the effective date of this regulation, shall be eligible to apply for and receive an immigrant visa notwithstanding the provisions of section 203 (b), (c), or (d) of the act, or the provisions of § 42.25 unless (i) the consular officer is satisfied that such alien has resided and been physically present abroad for an aggregate of at least two years since his departure from the United States following the termination of his exchange-visitor status in a country or countries cooperating in the exchange-visitor program, or (ii) the requirements of this subparagraph are waived as provided in section 201 (b) of the United States Information and Educational Exchange Act of 1948, as amended. (See § 41.102 in cases of former exchange visitors who apply for nonimmigrant "H" visas.)

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, the requirement of a two-year residence and physical presence abroad shall not apply in the case of an alien who was in the United States as an exchange visitor on or before June 4, 1956, who proceeded abroad temporarily on a personal visit or for reasons related to his exchange-visitor program, and who was readmitted into the United States subsequent to June 4, 1956, for the remainder of the period of authorized stay granted prior to the effective date of this regulation to continue his participation in the exchange-visitor program with which he was connected at the time of his departure from the United States.

The regulations contained in this order shall become effective thirty days after their publication in the *FEDERAL REGISTER*. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making are inapplicable to this order because the regula-

tions contained therein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 5 U. S. C. 1104)

Dated: August 10, 1956.

ROBERT F. CARTWRIGHT,
Acting Administrator, Bureau of
Security and Consular Affairs.

[F. R. Doc. 56-6730; Filed, Aug. 20, 1956;
8:48 a. m.]

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

Subchapter Q—Leasing and Permitting of Restricted Indian Lands and Other Lands Administered by the Bureau of Indian Affairs for Farming, Farm Pasture, Business, and Other Purposes

PART 171—LEASING AND PERMITTING

PART 177—AGRICULTURAL AND GRAZING LEASES, OSAGE NATION, OKLAHOMA

MISCELLANEOUS AMENDMENTS

1. Section 171.6 (c) and (e) is revised and new paragraph (g) is added to § 171.6 to read as follows:

§ 171.6 *Duration of leases and permits of restricted land.* . . .

(c) Farming leases not requiring such investment or development may be executed for a term of not to exceed five years for dry-farming lands or ten years for irrigable lands.

(e) Unless otherwise provided by the Commissioner or his authorized representative, the rental on leases granted for more than five years shall be subject to adjustment at not more than five year intervals.

(g) With the exception set forth in paragraph (a) of this section there shall be no provision for renewal in the leases.

2. Section 171.7 (c) is revised to read as follows:

§ 171.7 *Power of superintendent to grant leases or permits for restricted lands of individual Indians.* . . .

(c) Where the majority interest in land being leased is owned by Indians authorized to negotiate their leases as provided for in § 171.8 and such Indians have agreed to and executed a lease on terms satisfactory to the superintendent, the superintendent is authorized to execute the lease in behalf of undetermined presumptive heirs owning the minority interest in such lands and in behalf of such Indians whose lands he is authorized to lease under paragraphs (a) and (b) of this section, without advertising such minority interest and without the limitation as to term as provided for in § 171.6 (f).

3. Section 171.9 (a) is revised to read as follows:

§ 171.9 *Negotiation of tribal leases and permits.* (a) Tribes, acting through their tribal councils or their authorized representatives, may negotiate on forms approved by the Secretary or his duly

authorized representative and subject to the approval of the Secretary or his authorized representative, leases or permits with respect to tribal lands, at not less than the appraised value. A lease or permit may provide for the payment of rentals direct to the lessor when a tribe is organized and has facilities for handling its own funds, including an acceptable bonded officer to receipt for funds. Otherwise, the lease or permit shall provide for the payment of rentals to the superintendent for deposit to the credit of the tribe in the United States Treasury.

4. Section 171.17 is revised to read as follows:

§ 171.17 *Special mandatory provisions.* All leases or permits issued under this part shall contain provisions as follows:

(a) Nothing contained in this lease shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land during the term of this lease; however, such termination shall not serve to abrogate this lease. In the event of such termination, all powers, duties, or other functions of the Secretary of the Interior or his authorized representative shall terminate, and the responsibility for enforcing compliance with the covenants of this lease shall be assumed by the lessor, his heirs, devisees, executors, administrators, or assigns.

(b) In the event of termination of Federal supervision, the lessor and lessee, or their successors in interest, shall have a period of 30 days from the anniversary date provided for in the lease for adjustment of the rental within which to agree upon the rental adjustment or to agree upon a commercial appraiser to determine the fair annual rental value. If no agreement can be reached at the end of 30 days, the lessor and lessee, or their successors, shall each appoint an appraiser and the two appraisers shall select a third appraiser. The three appraisers so selected shall constitute the appraisal board to reevaluate the fair annual rental.

(c) The lessee (permittee) further agrees that he will not use or permit to be used any part of said premises for any unlawful conduct or purpose whatsoever; that he will not use or permit to be used any part of said premises for the manufacture, sale, gift, transportation, drinking or storage of intoxicating liquors or beverages in violation of existing laws relating thereto, and that any violation of this clause by the lessee (permittee) or with his knowledge, shall render this lease voidable at the option of the superintendent.

5. Section 171.24 (c) is revised to read as follows:

§ 171.24 *Crow Reservation.* * * *

(c) The approval of the superintendent of the Crow Agency shall not be required under § 171.8 with respect to leases or permits which are issued by Indian allottees whose names appear as competent on the rolls completed in accordance with the provisions of section 3 of the act of June 4, 1920 (41 Stat. 751), as

supplemented by the acts of May 19, 1926 (44 Stat. 566), May 2, 1928 (45 Stat. 482), March 15, 1948 (62 Stat. 80), and September 8, 1949 (63 Stat. 695), and which cover their own allotments or the allotments of their minor children for farming or grazing purposes except that leases other than farming and grazing made pursuant to the provisions of the act of August 9, 1955 (69 Stat. 539), all leases made by adult Crow Indians not classified as competent, and leases on heirship lands of Crow Indians having more than five competent devisees or heirs require the approval of the superintendent. Leases or permits requiring the approval of the superintendent shall provide that all rentals are to be paid by the lessee or permittee to the superintendent for the benefit of the Indian owners. Copies of all leases and permits that do not require the approval of the superintendent shall be filed promptly with the superintendent of the Crow Agency. Such filing shall impart constructive notice to all persons of its contents. No such lease which has not been so filed shall be recognized by the superintendent or by the Bureau as against lessees, purchasers, or encumbrancers of the same land in good faith for value and without notice. Any Crow Indian classified as competent shall have the full responsibility of obtaining compliance with the terms of any lease made by him pursuant to this section.

6. All of Part 177 is hereby revoked. (R. S. 161; 5 U. S. C. 22)

FRED A. SEATON,
Secretary of the Interior.

AUGUST 15, 1956.

[F. R. Doc. 56-6715; Filed, Aug. 20, 1956;
8:45 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

Subchapter E—Claims

PART 750—NAVY GENERAL CLAIMS

PART 753—FOREIGN, NONCOMBAT CLAIMS

MISCELLANEOUS AMENDMENTS

a. Change § 750.18 to read as follows:

§ 750.18 *Statutory authority.* The first section of the act of December 28, 1945 (59 Stat. 662; 31 U. S. C. 223d), makes applicable to the Navy the act of July 3, 1943 (57 Stat. 372; 31 U. S. C. 223b), as amended by the act of May 29, 1945 (59 Stat. 225; 31 U. S. C. 223b), the act of June 28, 1946 (60 Stat. 332; 31 U. S. C. 223b), the act of July 26, 1947 (61 Stat. 501; 31 U. S. C. 223b), the joint resolution of July 3, 1952 (66 Stat. 334; 31 U. S. C. 223b), the joint resolution of March 31, 1953 (67 Stat. 18; 31 U. S. C. 223b), the joint resolution of June 30, 1953 (67 Stat. 131; 31 U. S. C. 223b), and the act of March 29, 1956 (70 Stat. 60; 31 U. S. C. 223b). Pursuant to, and subject to the limitations of, this authority, as amended, the Secretary of the Navy and, subject to appeal to the Secretary of the Navy, such other officer or officers as he may designate for such

purposes and under such regulations as he may prescribe, are authorized to consider, ascertain, adjust, determine, settle, and pay in an amount not in excess of \$1,000 where accepted by the claimant in full satisfaction and final settlement, any claim against the United States arising on or after May 27, 1941, when such claim is substantiated in such manner as the Secretary of the Navy may by regulation prescribe, for damage to or loss or destruction of property, real or personal, or for personal injury or death caused by military personnel or civilian employees of the Navy while acting within the scope of their employment, or otherwise incident to noncombat activities of the Navy, including claims for damage to or loss or destruction, by criminal acts, of registered or insured mail while in the possession of the military authorities, claims for damage to or loss or destruction of personal property bailed to the Government and claims for damage to real property incident to the use and occupancy thereof, whether under a lease, express or implied, or otherwise.

b. Amend § 750.19 in the following respects:

§ 750.19 *Scope of the act of December 28, 1945, as amended.*

(a) Subject to the exceptions set forth in paragraph (b) of this section, claims not in excess of \$1,000, arising on or after May 27, 1941, for damage to or loss or destruction of real or personal property, or for personal injury or death caused by military personnel or civilian employees of the Navy while acting within the scope of their employment, or otherwise incident to noncombat activities of the Navy, including claims for damages to or loss or destruction, by criminal acts, of registered or insured mail while in the possession of the military authorities, claims for damage to or loss or destruction of personal property bailed to the Government and claims for damage to real property incident to the use and occupancy thereof, whether under a lease, express or implied, or otherwise, are payable by the Secretary of the Navy or his designees under the act of December 28, 1945, as amended, and §§ 750.17 to 750.27.

(b) The provisions of the act of December 28, 1945, as amended, and §§ 750.17 to 750.27 do not apply to:

(3) Any claim for personal injury or death incurred on or before March 29, 1956, other than for reasonable medical, hospital, and burial expenses actually incurred as a result thereof.

c. Change § 750.21 to read as follows:

§ 750.21 *Claims in excess of \$1,000.* Claims in excess of \$1,000, if otherwise within the scope of the act of December 28, 1945, as amended, and §§ 750.17 to 750.27, may be reported by the Secretary of the Navy to Congress for its consideration. Such claims, if found to be meritorious, will ordinarily be reported to Congress in a deficiency appropriation bill, obviating the claimant's initiation of private relief legislation.

d. Change § 750.27 to read as follows:

§ 750.27 *Statute of limitations.* No claim may be settled under the act of December 28, 1945, and §§ 750.17 to 750.27 unless it is presented in writing within two years after the occurrence of the accident or incident out of which it arises. However, if such accident or incident occurs in time of war or armed conflict, or if war or such armed conflict intervenes within two years after its occurrence, any claim may, on good cause shown, be presented within two years after peace is established or such armed conflict terminates. The dates of commencement and termination of an armed conflict for the purpose of the act of July 3, 1943, as amended and applicable to the Navy (see § 750.18) will be established by concurrent resolution of the Congress or by determination of the President. The provisions of this section do not revive claims in regard to which the period of limitation had expired prior to March 29, 1956, under the law then in effect.

e. Amend § 750.30 in the following respects:

§ 750.30 *Measure of damages.* * * *

(b) In claims for personal injury or death cognizable under the provisions governing the administrative settlement of Federal tort claims under Title 28, United States Code, or the civil action provisions of Title 28, United States Code, Section 1346 (b), the measure of damages is determined by the law of the place where the act or omission occurred. In claims for personal injury or death cognizable under the act of December 28, 1945, as amended, accruing on or before March 29, 1956, the measure of damages is restricted to reasonably necessary medical, hospital, and burial expenses, reasonable in amount and actually incurred, including, but not limited to, the following:

(c) In claims for personal injury or death cognizable under the act of December 28, 1945, as amended, accruing after March 29, 1956, the measure of damage may include reasonable medical, hospital, and burial expenses, reasonable compensation for anticipated medical expenses, loss of earnings and services, diminution of earning capacity, pain and suffering, permanent injury and death. In computing damages in cases of personal injury or death, local standards will be taken into consideration as a guide. In case of death, only one claim arises; the amount approved therefor will, to the extent found practicable or feasible, be apportioned among the beneficiaries and in the proportions, prescribed by law or custom of the place in which the accident or incident resulting in death occurs.

f. Change § 750.35 (a) (3) to read as follows:

(3) When injury or death results to any civilian other than an employee of the Government acting in the performance of his duty and covered by the United States Employees' Compensation Act.

g. Change § 750.36 (a) and (b) to read as follows:

(a) Immediate responsibility for the investigation of an incident in accordance with the regulations in this part lies with the commanding officer or officer in charge of the local naval activity which is most directly concerned, normally the commanding officer or officer in charge of the personnel involved or of the activity in which the incident occurred. When two or more activities are involved, the senior of the commanding officers or officers in charge concerned shall decide which of them shall have immediate responsibility for the investigation.

(b) When an accident or incident occurs at a place where the naval service does not have an installation or unit conveniently located for conducting an investigation, the commanding officer or officer in charge having immediate responsibility for making such investigation may request assistance from the commanding officer of any other organization of the Department of Defense. Such assistance may take the form of a complete investigation of the accident or incident, or it may cover only part of the investigation. Likewise, in the event that under similar circumstances the commanding officer or officer in charge of any other organization of the Department of Defense requests such assistance from the commanding officer or officer in charge of a naval installation or unit, the latter will comply with the request. If a complete investigation is requested, the report will be made in accordance with the regulations of the requested service. These investigations will normally be conducted without reimbursement for per diem, mileage, or other expenses incurred by the investigating installation or unit.

h. Change § 750.37 to read as follows:

§ 750.37 *The investigating officer.* Every investigation required by the regulations in this part shall be conducted by an investigating officer. The commanding officer or officer in charge of each naval activity shall designate a qualified individual under his command, preferably one with legal training and experienced in the conduct of investigations, as the investigating officer for the activity. Whenever necessary, in the discretion of the commanding officer or officer in charge, additional or assistant investigating officers may be appointed, each with all and the same powers as the investigating officer, except that all assistant investigating officers shall be under the general supervision of the investigating officer. To insure prompt investigation of every incident while witnesses are available and before damage has been repaired, the duties of an officer in his capacity as an investigating officer shall ordinarily have priority over any other assignments he may have.

i. Change § 750.38 (a) (5) to read as follows:

(5) To ascertain the nature, extent, and amount of damage and to obtain all pertinent repair bills or estimates, medical, hospital, and associated bills as are

necessary to the proper adjudication of a claim against or in favor of the Government which may arise from the incident. For proper method of computing the amount of damages, see § 750.30. Claims for loss of earnings and diminution of earning capacity arising under the Federal Tort Claims Act or the act of December 28, 1945, as amended, after March 29, 1956, require submission by the claimant of a statement by his employer executed before a notary public, or where the claimant is in business for himself a certified copy of company records, showing claimant's age, occupation, wage or salary, and time lost from work as a result of the incident. Where such statements or records are not available, a sworn statement by the claimant will be obtained. Claims for loss of earnings, diminution of earning capacity, medical and hospital expenses, anticipated medical expense, pain and suffering, physical disfigurement, and temporary or permanent injury arising under the Federal Tort Claims Act or the act of December 28, 1945, as amended, require submission by the claimant of a written statement by the attending physician setting forth the nature and extent of the injury and treatment, the duration and extent of the disability involved, the prognosis, and period of hospitalization or incapacity.

j. Change § 750.40 to read as follows:

§ 750.40 *Action by the commanding officer or officer in charge.* The investigative report will be reviewed and, if necessary, returned to the investigating officer for the correction of any omissions noted. If there is a legal officer available, the commanding officer or officer in charge should ordinarily use his services in reviewing and, if desirable, endorsing the report. If the report is in order, it shall be forwarded by endorsement, with any pertinent comments and recommendations. In cases in which the certificate report authorized by § 750.39 (b) is used, the commanding officer or officer in charge may indicate his approval of the certificate report by signing this report in the space provided thereon. One copy of the report shall be retained in the file of the local activity and shall be made available to safety officers for use in accident prevention and to superior commands upon request. The original and one copy of the report, together with all three copies of any claim filed, shall be forwarded by means of the aforementioned endorsement, without regard to chain of command, to the Commandant of the naval district in which the incident occurs, attention District Legal Officer. In cases where the incidents occur outside the geographical limits of any naval district, the commanding officer or officer in charge shall promptly forward such reports to the Judge Advocate General.

k. Change § 750.42 to read as follows:

§ 750.42 *Approval of claims.* (a) Claims cognizable under the provisions governing administrative settlement of federal tort claims under Title 28, United States Code, and §§ 750.1 to 750.7 shall be approved or disapproved, in whole or

in part, by any of the following, all of whom are designated to administer those provisions of law for the Navy:

- (1) The Judge Advocate General.
- (2) The Assistant Judge Advocate General.

(3) The Director, Civil Law Division of the Office of the Judge Advocate General.

(4) The Head, General Claims Branch, Civil Law Division of the Office of the Judge Advocate General.

(5) Such other officers as may be specifically designated by the Secretary of the Navy from time to time on an ad hoc basis to act upon claims arising out of particular incidents.

(6) The Commandant or the District Legal Officer of the naval district within which the claims arose, if the combined liquidated and known potential claims of all possible claimants for the property damage arising from the accident or incident do not exceed a total amount of \$1,000 and there are no known possible claims in any amount for either personal injury or death as a result of the accident or incident. Two copies of the approval and one copy of the voucher shall be forwarded to the Office of the Judge Advocate General without a letter of transmittal.

(7) The Legal Officer, U. S. Naval Base, Newport, Rhode Island, and the Legal Officer, U. S. Naval Submarine Base, New London, Connecticut, for claims accruing to operators of fishing vessels for damage to nets, booms, lines, and other trawler impedimenta as a result of contact with naval ordnance (mines and torpedoes), if the combined liquidated and known potential claims of all possible claimants for property damage arising from the accident or incident do not exceed a total amount of \$1,000 and there are no known possible claims in any amount for either personal injury or death as a result of the accident or incident. Two copies of the approval and one copy of the voucher shall be forwarded to the Office of the Judge Advocate General without a letter of transmittal.

(b) Claims cognizable under the act of December 28, 1945, and §§ 750.17 to 750.27 shall be approved or disapproved, in whole or in part by any of the following, all of whom are designated to administer those provisions of law for the Navy:

- (1) The Judge Advocate General.
- (2) The Assistant Judge Advocate General.

(3) The Director, Civil Law Division of the Office of the Judge Advocate General.

(4) The Head, General Claims Branch, Civil Law Division of the Office of the Judge Advocate General.

(5) Such other officers as may be specifically designated by the Secretary of the Navy from time to time on an ad hoc basis to act upon claims arising out of particular incidents.

(6) The Commandant or the District Legal Officer of the naval district within which the claim arose, if the combined liquidated and known potential claims of all possible claimants for the property damage arising from the accident or

incident do not exceed a total amount of \$1,000 and there are no known possible claims in any amount for either personal injury or death as a result of the accident or incident.

(7) The Legal Officer, U. S. Naval Base, Newport, Rhode Island, and the Legal Officer, U. S. Naval Submarine Base, New London, Connecticut, for claims accruing to operators of fishing vessels for damage to nets, booms, lines, and other trawler impedimenta as a result of contact with naval ordnance (mines and torpedoes), if the combined liquidated and known potential claims of all possible claimants for property damage arising from the accident or incident do not exceed a total amount of \$1,000 and there are no known possible claims in any amount for either personal injury or death as a result of the accident or incident.

(8) Foreign Claims Commissions to the extent authorized by Department of Defense Notices of January 28, 1955 (20 F. R. 775) and December 11, 1953 (18 F. R. 8513). (See § 753.33 of this chapter.)

(c) Claims cognizable under the act of July 11, 1919, as amended, and §§ 750.28 to 750.29 shall be approved or disapproved by the Secretary of the Navy.

(d) Subject to the provisions of Title 28, United States Code, section 1346 (b), and §§ 750.8 to 750.16 respecting civil action against the United States, and subject to the provisions of § 750.43, with regard to appeal, any award or determination of the Secretary of the Navy, or his designees, under the provisions governing administrative settlement of federal tort claims under Title 28, United States Code, is final and conclusive upon all officers of the Government, except when procured by means of fraud. Notwithstanding any other provision of law to the contrary, any settlement made by the Secretary of the Navy under the authority of the act of December 28, 1945, and §§ 750.17 to 750.27, or, subject to the provisions of § 750.43 with regard to appeal to the Secretary of the Navy, by his designees for the purpose, is final and conclusive for all purposes.

1. Change § 753.19 (a) to read as follows:

§ 753.19 *Creation.* (a) All commanding officers are hereby granted authority to appoint Foreign Claims Commissions. For the purposes of the Foreign Claims Act and the regulations in this part, the officer in charge of the United States Sending State Office for Italy and naval attachés are to be considered commanding officers. Commissions may be appointed to consider each claim as presented, or to constitute a standing claims commission to consider all claims presented to it. The commanding officer to whom a claim is presented has the duty of referring the claim to a commission and of appointing a commission himself where necessary or expeditious. Each Foreign Claims Commission will be composed of one or more officers.

(Sec. 1, 55 Stat. 889, as amended; 31 U. S. C. 224d)

By direction of the Secretary of the Navy.

W. R. SHEELEY,
Rear Admiral, U. S. Navy, Judge
Advocate General of the Navy
(Acting).

AUGUST 14, 1956.

[F. R. Doc. 56-6719; Filed, Aug. 20, 1956;
8:46 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

PART 204—DANGER ZONE REGULATIONS

FLUSHING CREEK, N. Y.; PACIFIC OCEAN OFF POINT REYES, CALIFORNIA

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 382; 33 U. S. C. 499), § 203.157 is hereby prescribed to govern the operation of the Whitestone Parkway Bridge across Flushing Creek, New York, as follows:

§ 203.157 *Flushing Creek, N. Y.; Whitestone Parkway Bridge.* (a) The owner of or agency controlling this bridge shall provide the appliances and the personnel necessary for the safe, prompt, and efficient opening of the draw for the passage of vessels.

(b) Vessels owned, controlled, or employed by the United States Government, State Government, or by municipal departments shall be passed without delay through the draw of this bridge at any time, day or night, after giving a signal of four blasts of the whistle.

(c) All other vessels unable to pass under the closed bridge shall be passed through the draw of this bridge at any time, day or night, after giving a signal of three blasts of the whistle, repeated at intervals when necessary until answered from the bridge, except between 6:30 and 9:30 a. m. and 4:00 and 7:30 p. m.

(d) Upon receiving the signal from the vessel, the operator of the bridge, in case the draw can be opened immediately shall reply by three blasts of a whistle or horn. In case of accident to the machinery or other contingency necessitating delay in opening of the draw, the signal from the vessel shall be answered by the operator of the bridge by two blasts of a whistle or horn.

(e) Pedestrians and vehicles shall not be stopped on the bridge for the purpose of delaying its opening, nor shall watercraft or vessels be so manipulated as to hinder or delay the operation of the drawspan, but all passage over, through, or under the bridge shall be prompt, to prevent delay to either land or water traffic.

(f) Clearance gauges of a type to be approved by the District Engineer, Corps of Engineers, shall be provided and kept in good legible condition. Unless otherwise specified, such clearance gauges shall consist of two board gauges painted white with black figures not less than

nine inches high, which shall indicate the headroom clearances under the closed span at all stages of the tide. These gauges shall be so placed, that they will be plainly visible to the operator of a vessel approaching the bridge either upstream, or downstream, and shall be illuminated at night and during periods of decreased visibility caused by fog, rain and snow.

(g) To the end that the draw of the bridge shall not be required to be opened or operated oftener than necessary outside of closed periods specified in paragraph (c) of this section, the height of the highest fixed point above water when light, of each vessel regularly and habitually navigating the waterway, shall be conspicuously posted, where it can be seen by the person in charge of said vessel. Each tug, barge and other small craft regularly and habitually navigating the waterway shall be subject to inspection and measurement by the District Engineer, Corps of Engineers, to determine which vessels, if any, would by reasonable reductions in heights of masts and/or stacks, be capable of passing under the closed draw of the bridge affording a least vertical clearance of 34 feet at mean high water. The said District Engineer will notify the owners of such vessels as can be so modified, of the date by which the modifications shall be completed. In the event of the failure of said owners to comply with such notification, the District Engineer will authorize the bridge owner to delay opening of the bridge for the passage of said vessels until convenient to do so, but on no occasion for more than forty-five minutes: *Provided, however*, That such vessel shall not be so delayed when it has in tow another vessel or craft of such height as to require the opening of the bridge, or when, because of the stress of weather, prompt opening is necessary. Any vessel passing the draw of the bridge as often as once a day for 10 days in any 30-day period, will be regarded as a regular and habitual user of the waterway within the meaning of this paragraph.

[Reg., August 7, 1956, 823.01 (Flushing Creek, N. Y.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U. S. C. 499)

2. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 204, 218 establishing and governing the use and navigation of a naval bomb target area in the Pacific Ocean off Point Reyes, California, is hereby revoked, as follows:

§ 204.218 *Pacific Ocean off Point Reyes, Calif., northwest of Farallon Islands; bombing target area, Naval Air Station, Alameda, Calif.* [Revoked]

[Regs., August 6, 1956, 800.2121 (Pacific Ocean, Calif.)—ENGWO] (Sec. 7, 40 Stat. 266; 33 U. S. C. 1)

[SEAL]

JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 56-6713; Filed, Aug. 20, 1956; 8:45 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter 1—Veterans Administration

PART 3—VETERANS CLAIMS

PART 4—DEPENDENTS AND BENEFICIARIES CLAIMS

PART 5—CENTRAL COMMITTEE ON WAIVERS AND FORFEITURES AND FIELD COMMITTEES ON WAIVERS

MISCELLANEOUS AMENDMENTS

1. In part 3, paragraph (a) of § 3.26 is amended to read as follows:

§ 3.26 *Application for benefits.* (a) A properly completed and executed VA Form 8-526, upon receipt by the Veterans Administration, constitutes an application for benefits indicated below and will be adjudicated under the applicable laws:

VA Form 8-526, Veteran's Application for Compensation or Pension: VA Form 8-526 is designated as an application for either compensation or pension, or both. It constitutes a formal claim for both benefits, and it is not necessary that the veteran subsequently file a separate claim for either. It is not required that the claim be processed or adjudicated for compensation and pension routinely and in all instances. Depending upon the manner of execution, that is, the items of information recorded on the form, it should be readily apparent whether the veteran is claiming either compensation or pension, or both benefits. If items 23, 24, and 25 are used, item 36 checked "No," and items 37 through 49 not used, the claim is for compensation and will be so adjudicated. If items 23, 24, and 25 are used, item 36 checked "Yes," and items 37 through 49 are used, the claim is also only for compensation but with an allegation of total disability. However, all disabilities, both service connected and nonservice connected, will be evaluated and the greater benefit awarded. If items 23, 24, and 25 are used, item 36 checked "Yes," and items 37 through 49 used, the claim is for both compensation and pension. If items 23, 24, and 25 are not used, item 36 is checked "Yes," and items 37 through 49 used, the claim is for pension. Any statement on VA Form 8-526, or in a separate communication, showing an intent to file a claim for additional disability resulting from training, hospitalization, medical or surgical treatment, or examination, filed within 2 years after the injury or aggravation was suffered, may be accepted as a claim under section 31, Public Law 141, 73d Congress; section 12, Public Law 866, 76th Congress; section 2 (par. 4, pt. VII), Public Law 16, 78th Congress, or Public Law 894, 81st Congress.

Under Executive Order 6017, February 7, 1933, and section 1500, Public Law 346, 78th Congress, as amended, diplomatic and consular officers of the Department of State are authorized to act as agents of the Veterans Administration and therefore a formal claim filed in a foreign country will be considered as filed in the Veterans Administration as of the date of receipt by the State Department representative.

2. In part 4, paragraph (b) (3) of § 4.0 is amended to read as follows:

§ 4.0 *Application for death benefits.* * * *

(b) *Furnishing of claim forms by the Veterans Administration.* * * *

(3) *Death due to Veterans Administration hospital treatment, etc.* An application for benefits under section 31, Public Law 141, 73d Congress; section 12, Public Law 866, 76th Congress; section 2 (par. 4, pt. VII), Public Law 16, 78th Congress, or Public Law 894, 81st Congress, will not be initiated. A statement on VA Form VB 8-534 or 8-535 or in a separate communication showing an intent to file a claim under those specific provisions of the law may be accepted as a claim.

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 48 Stat. 1016, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707)

3. In Part 5, § 5.4 is revised to read as follows:

§ 5.4 *Jurisdiction.* The Central Committee on Waivers and Forfeitures has exclusive jurisdiction to consider questions of forfeiture relating to the submission of false or fraudulent evidence, or mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies. (See sec. 504, World War Veterans' Act, 1924, as amended, 38 U. S. C. 555, as preserved and continued by sec. 11, Public Law 2, 73d Cong., 38 U. S. C. 711; sec. 15, Public Law 2, 73d Cong., 38 U. S. C. 715; sec. 9, Public Law 304, 75th Cong., 38 U. S. C. 510; sec. 4, Public Law 144, 78th Cong., 38 U. S. C. 728; sec. 1500, Public Law 346, 78th Cong., 38 U. S. C. 697; sec. 9, Public Law 23, 82d Cong., 38 U. S. C. 858; and sec. 270, Public Law 550, 82d Cong.) This jurisdiction does not include questions of forfeiture under the National Service Life Insurance Act of 1940 (Public Law 801, 76th Cong.), as amended, or under title V of the Servicemen's Readjustment Act of 1944, as amended. The field committees on waivers have no jurisdiction over forfeiture questions.

4. In § 5.5, paragraphs (c) and (d) are amended to read as follows:

§ 5.5 *When forfeiture questions arise.* * * *

(c) The Chief, Veterans Claims Division, if the veteran or alleged veteran is alive and the claim is under the jurisdiction of Veterans Benefits Office—District of Columbia.

(d) The Chief, Dependents Claims Division, if the veteran or alleged veteran is deceased and the claim is under the jurisdiction of Veterans Benefits Office—District of Columbia.

5. In § 5.6, paragraph (a) is amended to read as follows:

§ 5.6 *Actions preliminary to submissions.* (a) Where the question relates to what is thought to be false or fraudulent evidence, it shall be the duty of the official designated in § 5.5 to review the alleged false or fraudulent evidence and authorize an investigation when in his opinion there is reasonable assumption that such evidence is fraudulent, and when in his opinion any prior investigation is inadequate. Where the question involved is one of possible guilt of an offense mentioned in section 4,

Public Law 144, 78th Congress, such official shall not request an investigation but shall refer the folder or folders to the Central Committee on Waivers and Forfeitures for development, with a letter or memorandum stating the known facts. However, the Manager, Veterans Administration Regional Office, Republic of the Philippines, may authorize an investigation in the Philippines for the purpose of procuring evidence of an offense named in said section 4, Public Law 144, as well as in those cases involving what is thought to be false or fraudulent evidence; and may also as to the latter class suspend or in death cases recommend suspension of payments if warranted by the circumstances.

6. In § 5.7, paragraph (a) is amended to read as follows:

§ 5.7 *Submission of forfeiture questions.* (a) When an investigation has been completed or the evidence considered as provided in § 5.6 (a) and (b), the appropriate official designated in § 5.5 shall determine whether a submission to the Central Committee on Waivers and Forfeitures is warranted; and, if he determines that it is, shall forward the evidence and the folder or folders to said committee for a decision as to whether there is a forfeiture of rights under the statutory provisions specified in § 5.4. A submission may also be made to the Central Committee on Waivers and Forfeitures by the director of a service (or the Chairman, Board of Veterans Appeals, the Chief Medical Director, or the General Counsel) for the office concerned if the facts warrant. Prior to the submission of the folder or folders to the Central Committee on Waivers and Forfeitures for consideration of what is thought to be false or fraudulent evidence, payments shall be suspended as of the date of last payment, pending final action by that committee. Where the question is one of possible guilt of one of the offenses mentioned in section 4, Public Law 144, 78th Congress, payments in an active case shall not be suspended prior to a declaration of forfeiture.

7. Section 5.8 is revised to read as follows:

§ 5.8 *Determinations under section 4, Public Law 144, 78th Congress.* Section 4, Public Law 144, 78th Congress, provides in part that "Any person shown by evidence satisfactory to the Administrator of Veterans' Affairs to be guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies shall forfeit all accrued or future benefits under laws administered by the Veterans' Administration pertaining to gratuities for veterans and their dependents." As to any person who is not beyond the jurisdiction of the United States courts, no forfeiture for any of those offenses shall be declared except upon conviction in a court of competent jurisdiction; or otherwise after full notice and hearing with representation by counsel, if desired. Pending trial or hearing and declaration of forfeiture, benefits shall

not be suspended or discontinued. If in any case wherein forfeiture for such offenses has been declared, the person shall be later tried within the jurisdiction of the United States courts and found not guilty of the same offense, other than because of the defense of the statute of limitations, the forfeiture may be lifted as of its effective date, but any apportioned payments made in the meantime shall be valid and charged against amounts otherwise payable.

8. In § 5.9, paragraph (a) is amended to read as follows:

§ 5.9 *Decisions and actions pursuant thereto.* (a) When it is determined that a forfeiture is in order, the Central Committee on Waivers and Forfeitures shall render a decision to that effect. In cases involving section 4, Public Law 144, 78th Congress, a declaration of forfeiture must be approved by the Director, Compensation and Pension Service, and by the General Counsel. The decision shall be final unless appeal therefrom to the Administrator of Veterans Affairs is made in accordance with existing appeals regulations and procedure. In any case where there has been a forfeiture of rights, the claims folder and the R & E folder shall be retained in the Veterans Benefits Office, District of Columbia, during the lifetime of the person whose rights are forfeited, except that in the event entitlement to Veterans Administration benefits is claimed on the basis of service in the Armed Forces subsequent to the commission of the offense on which forfeiture determination was based, veterans records will, upon request, be permanently transferred to the regional office of jurisdiction. It is the duty of the division having jurisdiction over the benefits affected by the forfeiture to discontinue payments by stop payment notice as of the proper definite date, i. e., the date of the commission of the offense, or in section 4, Public Law 144, 78th Congress cases, the date of the decision of forfeiture, or where appropriate, date of last payment.

9. In § 5.10, paragraphs (a), that portion of (b) immediately preceding (1), (c), and (e) are amended to read as follows:

§ 5.10 *Central Committee on Waivers and Forfeitures.* (a) The Central Committee is established in central office under a Chairman and Section Chairmen. The Chairman is responsible to the Director, Compensation and Pension Service.

(b) The Central Committee has original jurisdiction to consider:

(c) The Chairman of the Central Committee is authorized by the Administrator to certify waivers of recovery of overpayments or of collection of indebtedness specified in § 5.0 (a), (b), (c), and (d). The Section Chairmen are authorized to perform this function in the absence of the Chairman, or when directed by him.

(e) Three members of the Central Committee, including the Chairman or a Section Chairman, must concur in a for-

feiture decision. These three members will be the same group to whom a case was assigned for consideration, hearing and decision. In case of nonconcurrence by any one member, the case will be assigned to the entire Central Committee for majority decision after full and impartial consideration. A decision shall, in other than section 4, Public Law 144, 78th Congress cases, be final. In the excepted cases a declaration of forfeiture shall be subject to the approval or disapproval of the Director, Compensation and Pension Service, and the General Counsel. Except as to the determinations specified in § 5.13 (b), all declarations of forfeiture shall be subject to an appeal to the Board of Veterans Appeals in accordance with existing appeals regulations and procedure. The Central Committee shall render a final decision on any request for an administrative review of a determination that an educational institution or training establishment is liable under section 7, Public Law 610, 81st Congress, or section 266, Public Law 550, 82d Congress, for an overpayment of subsistence allowance or educational and training allowance; and any such decision shall be valid if it is concurred in and signed by any two members of the specially constituted review section that is designated in § 5.13 (b).

10. Section 5.11 is revised to read as follows:

§ 5.11 *Committees on Waivers in field offices.* (a) In each district office and regional office there is established a field Committee on Waivers, consisting of three members designated from among the employees of that field office, whose service on the committee is in addition to their regular duties. In the Veterans Benefits Office, District of Columbia, there are established two field Committees on Waivers, of three members each, whose service on the committee is in addition to their regular duties as employees of the Veterans Benefits Office. No authorized certifying officer of the finance activity shall serve as a member of any of these committees. The Manager of the field office shall designate the members of the committee. In regional offices, the committee shall function directly under, and be administratively responsible to, the adjudication officer. In district offices, the committee shall function directly under, and be administratively responsible to, the Director, Claims Service. In the Veterans Benefits Office, District of Columbia, the two committees shall function directly under, and be administratively responsible to, the Chief, Veterans Claims Division, and the Chief, Dependents Claims Division, respectively. If the Manager of the field office considers that a larger committee is necessary because of unusual conditions he may appoint additional members for the period during which such conditions prevail, but the membership of the committee shall not exceed seven. Questions of the jurisdiction of the committee and the assignment of cases to its members shall be determined by the Chairman. The Manager of the field office shall re-

port to the Chairman, Central Committee on Waivers and Forfeitures, the name of each person designated as a member of the Committee on Waivers and the name of each person appointed as Chairman or Section Chairman.

(b) The Committee on Waivers shall have one Chairman; and either one Section Chairman or two Section Chairmen, at the discretion of the Manager, all appointed by the Manager. The Chairman and Section Chairmen are members of the committee. The duties of the Chairman shall be discharged by a Section Chairman when the Chairman is absent or when he authorizes the Section Chairman to do so. The Chairman and the Section Chairmen have been delegated authority to certify waiver of recovery of overpayments.

11. In § 5.13, paragraphs (a) and (b) (1) are amended to read as follows:

§ 5.13 Administrative reviews. * * *

(a) Except as provided in paragraph (b) of this section, a request for an administrative review of a decision of a Committee on Waivers may be made by (1) the claimant, his guardian, his agent duly authorized over the claimant's signature, or (2) on the part of the Veterans Administration, by the Manager of the field office. The request must be in writing and, unless the committee extends the time, shall be presented within 60 days from receipt of notice of the field committee's action. An additional period of 30 days may be granted when, in the committee's judgment, exceptional circumstances justify. The Central Committee may make an administrative review, on its own motion, of any decision of a field Committee on Waivers. A decision rendered upon administrative review by the Central Committee on Waivers and Forfeitures shall be subject to the right of any Chief Director or Service Director concerned or the General Counsel to appeal to the Administrator of Veterans Affairs within 1 year from the date thereof with decisions to be made by the Board of Veterans Appeals.

(b) * * *

(1) There is established in the Central Committee on Waivers and Forfeitures a specially constituted review section which will be comprised of three members, one of whom is to be designated by the Chairman, Central Committee on Waivers and Forfeitures, one by the Director, Vocational Rehabilitation and Education Service, and one by the General Counsel. This section will function under the jurisdiction of the Chairman of the Central Committee on Waivers and Forfeitures who will preside over the meetings of said section or will designate one member to preside in his stead to be known as a Section Chairman. An administrative review decision under this paragraph will be valid if it is concurred in and signed by any two members of the review section. The section that is constituted in this paragraph will have jurisdiction to conduct administrative reviews of decisions of the field Committee on Waivers in:

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707. Interpret or apply secs. 28, 504, 43 Stat. 615, 629, as amended, sec. 4, 48 Stat. 529, as amended, secs. 11, 15, 48 Stat. 10, 11, sec. 9, 50 Stat. 662, sec. 1, 53 Stat. 1252, secs. 1, 609, 54 Stat. 1193, 1013, secs. 1, 4, 57 Stat. 554, 555, sec. 1500, 58 Stat. 300, sec. 1, 60 Stat. 908, sec. 9, 65 Stat. 35, Vet. Reg. 1 (a), Part VIII, as amended, secs. 270, 271, 68 Stat. 681, 67 Stat. 192; 38 U. S. C. 33, 36, 453, 507a, 510, 555, 697, 715, 717 note, 727, 728, 739, 809, 858, ch. 12A.)

This regulation is effective August 21, 1956.

[SEAL] JOHN S. PATTERSON,
Deputy Administrator.

[F. R. Doc. 56-6728; Filed, Aug. 20, 1956;
8:47 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Rules Amdts. 1-6, 9-4; FCC 56-789]

PART 1—PRACTICE AND PROCEDURE

PART 9—AVIATION SERVICES

USE OF CIVIL AIR PATROL APPLICATION FORM (FCC FORM 480) FOR RENEWAL OF CAP AUTHORIZATIONS

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 15th day of August 1956;

The Commission having under consideration a request by National Headquarters, Civil Air Patrol, to permit the use of FCC Form 480 for renewal of CAP authorizations; and

It appearing that, approval of the above-described request is justified in terms of increased efficiency in the handling of CAP applications, both within the Commission and the CAP National Headquarters; and

It further appearing that, since the amendments herein ordered are procedural and editorial in nature, notice of proposed rules making under section 4 (a) of the Administrative Procedure Act is unnecessary and would serve no useful purpose;

It is ordered, That, pursuant to authority contained in sections 303 (r) and 308 (b) of the Communications Act of 1934, as amended, Parts 1 and 9 of the Commission's rules and regulations be amended, effective the 17th day of September, 1956, as set forth below.

(Sec. 4, 48 Stat. 1066, as amended, 47 U. S. C. 154. Interpret or apply secs. 303, 308, 48 Stat. 1083, 1085; 47 U. S. C. 303, 308.)

Released: August 16, 1956.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] DEE W. PINCOCK,
Acting Secretary.

1. Amend § 1.312 (e) to read as follows:

(e) FCC Form 480, "Application for Civil Air Patrol Radio Station Authorization."

2. Amend § 9.108 (e) to read as follows:

(e) Application for renewal of radio station license, except Civil Air Patrol, shall be submitted on FCC Form 405-A. Application for renewal of Civil Air Patrol radio station authorization shall be submitted on FCC Form 480. Unless otherwise directed by the Commission, each application for renewal of license shall be filed during the last 60 days of the license term. In any case in which the licensee has, in accordance with the Commission's rules made timely and sufficient application for renewal of license, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

[F. R. Doc. 56-6748; Filed, Aug. 20, 1956;
8:51 a. m.]

[Rules Amdt. 12-22]

PART 12—AMATEUR RADIO SERVICE

MISCELLANEOUS AMENDMENTS

The Commission having under consideration the desirability of making certain editorial changes in §§ 12.23, 12.27, 12.156 and Appendix 1 of its rules governing Amateur Radio Service; and

It appearing that the amendments adopted herein are editorial in nature, and, therefore, prior publication of Notice of Proposed Rule Making under the provisions of section 4 of the Administrative Procedure Act is unnecessary, and the amendments may become effective immediately; and

It further appearing that the amendments adopted herein are issued pursuant to authority contained in sections 4 (1), (5) (d) (1) and 303 (r) of the Communications Act of 1934, as amended, and section 0.341 (a) of the Commission's statement of organization, delegations of authority and other information;

It is ordered, This 16th day of August 1956, that, effective August 27, 1956, Part 12 is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; sec. 5, 66 Stat. 713; 47 U. S. C. 303, 155.)

Released: August 16, 1956.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] DEE W. PINCOCK,
Acting Secretary.

1a. Section 12.23 (e) (2) (i) is amended to read as follows:

(i) 3700 to 3750 kc, radiotelephony using only type A1 emission.

b. Section 12.23 (e) (2) (iv) is amended to read as follows:

(iv) 145 to 147 Mc, radiotelephony or radiotelephony using types of emission as set forth in Section 12.111.

2. Section 12.27 (d) is amended to read as follows:

(d) A renewal application which includes a modification (change of ad-

dress) shall be submitted on FCC Form 610 and shall be accompanied by the applicant's amateur operator license, and also by his amateur station license if he holds one.

3. That portion of § 12.156 which precedes paragraph (a) is amended as follows: Change "Regional Manager" to "Engineer in Charge."

4. Appendix I of Part 12 is amended to delete the list of the offices of the Regional Managers of the Field Engineering and Monitoring Bureau.

[F. R. Doc. 56-6749; Filed, Aug. 20, 1956; 8:51 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 1320]

[1267231]

IDAHO

REVOKING EXECUTIVE ORDER NO. 4682 OF JULY 4, 1927, WHICH WITHDREW PUBLIC LAND FOR USE OF STATE OF IDAHO AS A RIFLE RANGE FOR IDAHO NATIONAL GUARD

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141) and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Executive Order No. 4682 of July 4, 1927, which withdrew the following-described public land for use of the State of Idaho as a rifle range for the Idaho National Guard is hereby revoked:

BOISE MERIDIAN

T. 4 N., R. 36 E.,
Sec. 18, NW ¼.

The area described aggregates approximately 157.48 acres.

The land is located in Jefferson County about 5½ miles west of Rigby, Idaho, at an elevation of about 4,800 feet. The soil is mainly of sandy texture formed from disintegrated basalt. There is considerable lava rock outcrop and float rock. Vegetative cover is primarily sagebrush, cheatgrass, Russian thistle and some annual weeds. The land is within Grazing District No. 3.

No application for the land may be allowed under the homestead, desert-land, small tract, or any other non-mineral public-land law unless the land has already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The land will not be subject to occupancy or disposition until it has been classified.

Subject to any valid existing rights and the requirements of applicable law, the land is hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the non-mineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference

rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on September 20, 1956, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on December 20, 1956, will be governed by the time of filing.

(3) All valid applications and selections under the non-mineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10 a. m. on December 20, 1956, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

b. The land has been opened to applications and offers under the mineral-leasing laws, and to location for metalliferous minerals. It will be open to location for non-metalliferous minerals under the United States mining laws beginning at 10:00 a. m. on December 20, 1956.

Inquiries concerning the land shall be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

FRED A. SEATON,
Secretary of the Interior.

AUGUST 15, 1956.

[F. R. Doc. 56-6717; Filed, Aug. 20, 1956; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

[7 CFR Part 814]

[Hearing Clerk Docket No. SH-138]

1956 SUGAR QUOTAS FOR PUERTO RICO

NOTICE OF REOPENED HEARING

Pursuant to the provisions of the Sugar Act of 1948, as amended (61 Stat. 922, as amended by 65 Stat. 318, 7 U. S. C. 1100 et. seq.), hereinafter referred to as the "act," the 1956 Mainland quota of 1,080,000 short tons, raw value, and the direct-consumption portion thereof amounting to 123,033 short tons, raw value, for Puerto Rico as established by Sugar Regulation 811 (20 F. R. 9848) and the local quota of 100,000 short tons, raw value, for Puerto Rico

as established in Sugar Regulation 812 (20 F. R. 9850) were allotted in Sugar Regulation 814.15, Amendment 1 (21 F. R. 5819) and 814.16 (20 F. R. 9901; 21 F. R. 105). The act was amended by Public Law 545, 84th Congress, approved May 29, 1956, which provided, among other things, for increases in the mainland and direct-consumption quotas for Puerto Rico above the previously fixed levels when total sugar requirements exceed 8,650,000 short tons, raw value. In accordance therewith, the 1956 mainland quota for Puerto Rico was increased by 13,750 short tons, raw value, to total 1,093,750 short tons, raw value, by Sugar Regulation 811, Amendment 4 (21 F. R. 6009) effective August 11, 1956, and the 1956 direct-consumption portion of the quota for Puerto Rico will be increased by 1,605 short tons, raw value, to total 127,638 by a subse-

quent amendment to Sugar Regulation 811.

In view of such increases in the 1956 sugar quotas for Puerto Rico and to provide a basis for the allotment thereof and any further changes in such quota, it is necessary to reopen the record and hearing in the proceedings pertaining to the allotment of such quota identified as Hearing Clerk Docket No. SH-138, to permit evidence, limited to the subjects and issues hereafter stated, to be introduced into such record. Accordingly, pursuant to section 205 of the act (62 Stat. 926, as amended by sec. 10, Public Law 545, 84th Congress) and in accordance with the applicable rules of practice and procedure (21 F. R. 4251) notice is hereby given that a public hearing will be held in Room 2W, Administration Building, U. S. Department of Agriculture,

August 31, 1956, beginning at 9:30 a. m., e. d. s. t.

The scope of such hearing will be limited to the presentation of evidence relevant and pertinent to the following subjects and issues.

1. The allotment, in accordance with section 205 of the act, of (a) the increase of 13,750 short tons, raw value, in the 1956 mainland sugar quota for Puerto Rico and the allotment of any further increases or reductions of that part of the quota in excess of 1,080,000 short tons, raw value, and (b) any increase or decrease in the local quota for Puerto Rico, and (c) the indicated increase of 1,605 short tons, raw value, in the portion of the quota for Puerto Rico which may be filled by direct-consumption sugar and the allotment of any further increases or reductions of that part of the direct-consumption limit in excess of 126,033 short tons, raw value.

At the hearing, the Department of Agriculture will propose (1) that the increase of 13,750 short tons, raw value, in the 1956 mainland sugar quota for Puerto Rico, and any further increases or reductions of that part of the mainland quota in excess of 1,080,000 short tons, raw value, and any increase or decrease in the local quota for Puerto Rico be allotted in the same manner used in determining local and mainland allotments as established in S. R. 814.15, Amendment 1 (21 F. R. 5819), and (2) that the increase of 1,605 short tons, raw value, in the portion of the quota for Puerto Rico which may be filled by direct-consumption sugar and any further increases or decreases therein in excess of 126,033 short tons, raw value, be allotted in the same manner used in determining allotments established in S. R. 814.16 (20 F. R. 9901).

It also will be appropriate at the hearing to present evidence of any corporate merger or consolidation or of any transfer of sugar processing facilities on the basis of which the Secretary may attribute the production, marketing and inventory of one processor to another and establish allotments accordingly, or may permit marketing of sugar for local consumption and bringing into continental United States for consumption therein by one allottee, or other person, within the allotment of another. A Government witness will propose that a paragraph be included in the allotment order as follows: "The Director of the Sugar Division, Commodity Stabilization Service, of the Department, may, consistent with the provisions and objectives of the Sugar Act, permit marketing of sugar for local consumption in Puerto Rico and bringing sugar into continental United States for consumption therein by one allottee, or other person, within the allotment or portion thereof established for another allottee upon receipt of evidence satisfactory to him of a merger, consolidation, transfer of sugar processing facilities, or other action of similar effect upon the allottees or persons involved, and upon relinquishment by one of the allottees of all or a portion of its allotment."

Issued at Washington, D. C., this 16th day of August 1956.

[SEAL]

TRUE D. MORSE,

Acting Secretary of Agriculture.

[F. R. Doc. 56-6744; Filed, Aug. 20, 1956; 8:50 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 40, 41]

[Draft Release No. 56-21]

REQUIREMENTS FOR PILOT ROUTE QUALIFICATIONS IN SCHEDULED INTERSTATE AIR CARRIER OPERATIONS AND SCHEDULED AIR CARRIER OPERATIONS OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board the adoption of a Special Civil Air Regulation to supersede Special Civil Air Regulations Nos. SR-413 and SR-414 and to extend the authority therein which permits pilots to be qualified at airports by means other than those required by the applicable provisions of Parts 40 and 41 of the Civil Air Regulations.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rule, communications must be received by Sept. 14, 1956. Copies of such communications will be available after Sept. 17, 1956, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

The Board, on September 23, 1955, promulgated Special Civil Air Regulation No. SR-413 and on December 23, 1955, promulgated Special Civil Air Regulation No. SR-414. These regulations permit air carriers, with the approval of the Administrator, to qualify their pilots at airports by means other than physical entry. SR-413 is applicable to scheduled air carrier operations outside the continental limits of the United States, whereas SR-414 is applicable to scheduled domestic air carrier operations. Both SR-413 and SR-414 terminate September 23, 1956.

The history of these special regulations began with the publication by the Bureau of Safety Regulation of Civil Air Regulations Draft Release No. 55-3 on January 20, 1955. This draft release was concerned with the overall problem of pilot airport and route qualification. Therein considerable emphasis was placed in particular on recent developments of motion picture panoramic view of airports and their environs which showed excellent promise of providing an effective means for insuring pilot air-

port qualification. The Bureau expressed the view that the regulations should be amended in a manner that would encourage further research and development of the visual training aids programs by various commercial sources and at the same time provide more acceptable airport qualification rules for use in the meantime. Furthermore, the Bureau stated that it would seem appropriate to permit methods of airport qualification other than physical entry, provided that such alternative methods had the approval of the Administrator.

Following publication of Draft Release No. 55-3, the Board received petitions from American Airlines, Inc., and Pan American World Airways, Inc., requesting permission to qualify their pilots on certain routes and at specified airports by means other than those presently required by §§ 40.303 (c) and 41.50 of Parts 40 and 41, respectively, of the Civil Air Regulations. These air carriers based their requests upon, among other things, the consideration that each had developed a comprehensive training program based on the use of color motion pictures or slides showing clear daylight views of the complete physical layout of the airports, surrounding terrain, obstructions, approaches to all runways, restricted areas, and conspicuous reference points that are of value to the pilot. Furthermore, it appeared that certain precautionary procedures would be employed to assure that the training programs would be effective and the operations would be conducted safely.

The Board considered that the programs developed by these air carriers would provide a timely opportunity for evaluating the use of pictorial means of airport and route qualification by industry and the Government, and that a Special Civil Air Regulation was the appropriate vehicle for permitting the controlled introduction of the new techniques. Accordingly, the Board promulgated SR-413 for air carriers conducting operations pursuant to Part 41 and SR-414 for those air carriers conducting their operations under Part 40. The Board made clear, however, that nothing in SR-413 and SR-414 was to be construed to prejudice final action by the Board on the proposals presented originally in Draft Release No. 55-3.

In view of the fact that Special Civil Air Regulations Nos. SR-413 and SR-414 will terminate on September 23, 1956, the Bureau, on June 15, 1956, requested the views of the Civil Aeronautics Administration (CAA), the Air Transport Association (ATA), and the Air Line Pilots Association (ALPA) with respect to the effectiveness of SR-413 and SR-414 and asked for any recommendations they might have concerning these special regulations.

In consideration of an evaluation made of the views and recommendations received from the CAA, ALPA, and ATA, the Bureau believes that the controlled introduction of new pictorial techniques of pilot airport qualification should be permitted to continue for another year. This will enable industry and the Government alike to obtain additional in-

formation and experience with respect to improving pilot airport qualifications and procedures.

However, the Bureau is cognizant of the Board's policy that the same standards should be applied to scheduled international and domestic operations, except where the inherent differences in the types of operations require differentiation. It is the Bureau's opinion that pilot airport qualification is a type of operation which can be conducted uniformly in both international and domestic operations. Accordingly, the Bureau proposes herein to combine the authority presently contained in SR-413 and SR-414 into one Special Civil Air Regulation, the provisions of which would be uniformly applicable to Parts 40 and 41 air carriers desiring to employ means of pilot airport qualification other than those presently required by §§40.303 (c) and 41.50 of Parts 40 and 41, respectively. The language used is essentially the same as that presently contained in SR-414, with certain modifications and additions which are discussed below.

This proposed special regulation contains a provision which would permit a pilot to make an initial entry at an airport under day VFR without being accompanied by a pilot qualified at the airport only when such entry has the approval of the Administrator. While it is recognized that many airports could be safely entered for the first time under minimum VFR conditions, it is proposed to require the approval of the Administrator because it is believed that such an initial entry at airports located in certain mountainous or congested areas would be an undesirable practice in an air carrier operation.

Special Civil Air Regulations Nos. SR-413 and SR-414 provide that physical entry shall not be required if the air carrier shows that the pilot airport qualification can be accomplished by "other means" approved by the Administrator. It has come to the Bureau's attention that there is need to clarify the meaning of the words "other means." During the past three years, these words have had significance only in two respects: First, to permit pilot airport qualification by approved pictorial means; and second, to authorize the Administrator to find, on the basis of certain factors surrounding a transfer of an air carrier's operations to an airport in close proximity to one at which the pilots are qualified, that the pilots involved are adequately qualified at the new airport even though they have not made an actual entry. Therefore, in this proposed special regulation, the words "other means" are omitted and the two aforementioned situations are clearly spelled out as those to be covered by this regulation.

It should be clearly understood that this proposed temporary regulation will not relieve any air carrier of the responsibility of showing that each pilot in command is thoroughly qualified for the routes and airports which he is scheduled to serve. Furthermore, nothing in this proposed regulation should be construed to prejudice final action by the Board on the proposals presented in Draft Release No. 55-3.

In view of the foregoing, notice is hereby given that it is proposed to promulgate a Special Civil Air Regulation to read as follows:

Contrary provisions of Parts 40 and 41 of the Civil Air Regulations notwithstanding, an air carrier conducting scheduled interstate operations or scheduled operations outside the continental limits of the United States may, subject to the approval of the Administrator, comply with the following provisions in lieu of the applicable provisions of §§40.303 and 41.50:

(a) The air carrier shall be responsible that each pilot in command is thoroughly qualified for the route over which he is to fly aircraft in scheduled air transportation as a pilot in command. An air carrier shall not utilize a pilot as pilot in command until he has been qualified for the route on which he is to serve at least in accordance with paragraphs (b), (c), (d), and (e) of this regulation and the appropriate instructor or check pilot has so certified.

(b) Each such pilot shall demonstrate adequate knowledge concerning the subjects listed below with respect to the route to be flown. Those portions of the demonstration pertaining to holding procedures and instrument approach procedures may be accomplished in a synthetic trainer which contains the radio equipment and instruments necessary to simulate the navigational and letdown procedures approved for use by the air carrier:

- (1) Weather characteristics,
- (2) Navigational facilities,
- (3) Communication procedures,
- (4) Type of en route terrain and obstruction hazards,
- (5) Minimum safe flight levels,
- (6) Position reporting points,
- (7) Holding procedures,
- (8) Pertinent traffic control procedures, and

(9) Congested areas, obstructions, physical layout, and all instrument approach procedures for each regular, provisional and refueling airport approved for the route.

(c) Each such pilot shall make an entry as a member of the flight crew at each regular, provisional, and refueling airport into which he is scheduled to fly. Such entry shall include a landing and take-off. The qualifying pilot shall occupy a seat in the pilot compartment. He shall be accompanied by a pilot who is qualified at the airport, except when such entry is approved by the Administrator to be made under day VFR.

(d) An air carrier shall not be required to qualify its pilots in accordance with the entry requirements of paragraph (c) of this regulation when the air carrier:

(1) Shows that the pilot airport qualifications can be accomplished by an approved pictorial means; or

(2) Notifies the Administrator that it intends to inaugurate operations at an airport in close proximity to an airport into which the pilots involved are presently qualified by entry, and the Administrator finds that such pilots are adequately qualified at the new airport. The Administrator, in making such finding, shall take into consideration at least the familiarity of the pilots with the layout, surrounding terrain, location of obstacles, and instrument approach and traffic control procedures at the new airport, and such other factors as the Administrator deems necessary to support such a finding.

(e) On routes on which navigation must be accomplished by pilotage and on which flight is to be conducted at or below the level of the adjacent terrain which is within a horizontal distance of 25 miles on either side of the center line of the route to be flown, the pilot shall be familiarized with such route by not less than two one-way trips as pilot or additional member of the crew over the route under CFR weather conditions to

permit the qualifying pilot to observe terrain along the route.

It is proposed that this regulation shall supersede Special Civil Air Regulations Nos. SR-413 and SR-414 and shall be effective for a period of one year.

This regulation is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. The proposal may be changed in the light of comment received in response to this notice of proposed rule making.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601-610, 52 Stat. 1007-1012, as amended; 49 U. S. C. 551-560)

Dated at Washington, D. C., August 13, 1956.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,
Director.

[F. R. Doc. 56-6747; Filed, Aug. 20, 1956; 8:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 11297; FCC 55-1120]

TELEVISION BROADCAST STATIONS

NOTICE OF PROPOSED RULE MAKING

1. The commission has under consideration its notice of proposed rule making (FCC 55-268) issued in this proceeding on March 3, 1955 and published in the FEDERAL REGISTER on March 9, 1955 (20 F. R. 1410), proposing to amend § 3.685 of its rules governing Television Broadcast Stations, which relates to the location of transmitter and antenna systems. The proposed amendment would require television antennas to be located within 5 miles of the nearest border of the city or boundary of the principal community to be served unless good cause is shown for locating the site beyond this limit. The notice was issued in response to a petition filed by Lake Huron Broadcasting Corporation, Saginaw, Michigan.

2. Joint comments in support of the proposal were filed by Boise Valley Broadcasters, Inc., Boise, Idaho; KCOR, Inc., San Antonio, Texas; King Broadcasting Company, Seattle, Washington; KOTV, Inc., Tulsa, Oklahoma; Lucille Ross Lansing, Tyler, Texas; Meredith Engineering Company, Kansas City, Missouri; Meredith Syracuse Television Corporation, Syracuse, New York; Meredith WOW, Inc., Omaha, Nebraska; Nathan Frank, New Bern, North Carolina; Premier Television, Inc., Evansville, Indiana; Sir Walter Television Company, Raleigh, North Carolina; Southwestern Radio and Television Company, Fort Smith, Arkansas; Tupelo Citizens Television Company, Tupelo, Mississippi; TV Denver, Inc., Denver, Colorado; and Wabash Valley Broadcasting Corporation, Terre Haute, Indiana. Comments supporting the proposal were also filed by Lake Huron Broadcasting Corporation, Saginaw, Michigan; the Department of Defense, Washington, D. C.; Susquehanna Broadcasting Company, York, Pennsylvania; Mount Hood Radio and

Television Broadcasting Corporation, Portland, Oregon; Mid-Florida Radio Corporation and Mid-Florida Television Corporation, Orlando, Florida; Twin Valley Broadcasters, Inc., Coldwater, Michigan; The Montana Network, Billings, Montana; WKY Radiophone Company, Oklahoma City, Oklahoma; North-eastern Indiana Broadcasting Company, Inc., Fort Wayne, Indiana; Central Florida Broadcasting Company, Orlando, Florida; WORZ, Inc., Orlando, Florida; Havens and Martin, Inc., Richmond, Virginia; Greenville Television Company, Greenville, South Carolina; and Houston Consolidated Television Company, Houston, Texas. Triangle Broadcasting Corporation, Winston-Salem, South Carolina; and Arnold, Fortas and Porter, Esqs., Washington, D. C., submitted comments with respect to the application of the proposed amendment.

3. Comments in opposition to the proposed amendment were filed by Albuquerque Broadcasting Company, Albuquerque, New Mexico; WJR, The Goodwill Station, Inc., Flint, Michigan; The New Britain Broadcasting Company, New Britain, Connecticut; WGAL, Inc., Lancaster, Pennsylvania; Associated Broadcasters, Inc., Bethlehem, Pennsylvania; The National Association of Radio and Television Broadcasters, Washington, D. C.; Voice of Dixie, Incorporated, Birmingham, Alabama; Gulfport Broadcasting Corporation, Pensacola, Florida; Capitol Broadcasting Company, Raleigh, North Carolina; KTBS, Inc., Shreveport, Louisiana, and others; Bell Publishing Company, Temple, Texas; Gulf Television Company, Galveston, Texas; Association of Federal Communications Consulting Engineers, Washington, D. C.; WCHS-TV, Inc., Charleston, West Virginia; Telrad, Inc., Daytona Beach, Florida; Deep South Broadcasting Company, Selma, Alabama; Tribune Publishing Company, Tacoma, Washington; A. Earl Cullum, Jr., Dallas, Texas; WMBD, Inc., Peoria, Illinois; Storer Broadcasting Company; McClatchy Broadcasting Company; WHAS, Inc., Louisville, Kentucky; Aladdin Broadcasting Corporation, Denver, Colorado; Intermountain Broadcasting and Television Corp., Salt Lake City, Utah; WSTV, Inc., Steubenville, Ohio; Midwestern Broadcasting Company, Traverse City, Michigan; Sarkes Tarzian, Inc., Bloomington, Indiana; KHQ, Inc., Spokane, Washington; K-Six Television, Inc., Corpus Christi, Texas; Tri-Cities Television Corporation, Bristol, Tennessee; American Broadcasting-Paramount Theaters, Inc.; Columbia Broadcasting System, Inc.; Allan B. DuMont Laboratories, Inc.; National Broadcasting Company, Inc.; National Council of Farmer Cooperatives, Washington, D. C.; The National Grange, Washington, D. C.; and The American Farm Bureau Federation.

4. Under the Commission's present rules television stations are afforded considerable latitude and flexibility in selecting their transmitter and antenna sites. The rules contain no provisions which specify the distance such sites must be located from the principal community a station is authorized to serve. However, certain rules do have a limiting effect on the choice of a site. Section

3.607 provides that television channels are available for use in the cities listed in the Table of Assignments (3.606) and to communities within 15 miles of such listed cities. Section 3.610, relating to minimum co-channel and adjacent channel separations, requires that transmitters be located a minimum distance from certain other stations and assignments. Section 3.685 (a) further limits the location of transmitters by specifying that stated minimum field intensity contours must be placed over the entire community to be served. Section 3.685 (b) provides that the antenna shall be located at a point of high elevation to reduce the shadow effect on propagation due to hills and buildings and that, in general, the antenna should be located at the most central point at the highest elevation available. Certain additional general criteria to guide the selection of antenna sites are set forth in this section, but the maximum distance that antennas may be located from the community to be served is not specified.

5. In the above-mentioned notice the Commission proposed to amend § 3.685 by adding the following paragraph:

(j) (1) Subject to subparagraphs (2) and (3) of this paragraph, no application will be granted proposing the location of the antenna more than five miles from the nearest border of the city limits or boundary of the principal city to be served.

(2) The foregoing provision may be waived only upon written request by the applicant if the Commission shall find that the public interest, convenience or necessity would be better served by the location of the antenna as proposed instead of within the five-mile limit.

(3) Any request for waiver shall set forth the facts and reasons warranting such a finding and shall include the following information:

(i) A full disclosure of all understandings and agreements, oral or written, with any network organization or representatives thereof, pertaining to network affiliations or pertaining to the availability of network programs contingent upon the proposed location of the antenna.

(ii) A full disclosure of the applicant's known plans with respect to the location of all studios, main or otherwise, the hours of local programming, and a description of the general nature thereof, proposed to be provided through each such studio.

(iii) A full disclosure of all of the applicant's reasons for proposing the location of the antenna outside the five-mile limit and the facts which the applicant believes demonstrate that locating the antenna as proposed would better serve the public interest, convenience and necessity.

6. The parties supporting the proposed amendment submit that the nationwide television Table of Assignments is predicated upon assignment principles and priorities which represent a fair, efficient, and equitable distribution of available facilities as required by section 307 (b) of the Communications Act. They maintain that the proposed five-mile limitation on transmitter and an-

tenna sites is required to insure that television channels are employed to serve primarily the communities and areas for which the channels have been assigned as contemplated by the basic television channel assignment plan and to prevent a relative concentration of service in particular areas and communities at the expense or to the detriment of others. They urge that the present absence of restrictions on transmitter sites can result in a substantial circumvention of the television assignment plan. Several cases are cited wherein applicants have allegedly attempted to "straddle" other markets and to "leap frog" assignments by choosing sites at considerable distances from the principal community to be served. It is contended that stations conducting a regional type of operation at sites remote from the principal community design their programming and commercial efforts for the larger markets, which generally already have adequate service, instead of for the principal communities and areas to be served, or employ a general programming format that includes little or no programming tailored particularly for the communities the stations are authorized to serve. It is charged that as a result the competitive position of local stations, particularly UHF, in such other markets are jeopardized and the principal communities to be served are deprived of the local service contemplated under the Table of Assignments. It is further asserted that to permit stations to achieve economic dominance in a wide, regional market through location of their transmitter at great distances from the principal community to be served is contrary to the public interest and to the furthering of competition. It is urged that location of the transmitter and antenna system relatively close to the principal community and the main studio would make possible better overall technical operation and on-the-spot management more closely identified with the principal community to be served; that it would tend to provide a better signal over the principal community and a more uniform signal over the trade area; that it would discourage the straddling of two or more communities and that it would discourage regional operations at sites distant from the principal communities to be served which thwart the establishment of television station operations for local self-expression. The Department of Defense is of the opinion that the proposed amendment would materially assist it and the Commission in preventing the erection of obstructions that would be menaces to air navigation.

7. While recognizing that the Commission has stated on a number of occasions that antenna sites at points substantially distant from the principal city would be considered on a case-to-case basis, Port Huron urges that the proposed rule would assist the Commission in considering the problems on a case-to-case basis by delineating the relevant factors. It is also stated that the proposed rule would furnish applicants with a guide as to the showing required for location of an antenna at a distance from the city to be served.

The parties urge that the proposed amendment is reasonable and not overly restrictive since the five-mile limitation would not be an absolute requirement and would not preclude an application which, by an appropriate showing, establishes a proper basis for locating the transmitter and antenna system outside the five-mile limit. However, they recognize the need for a waiver provision to take care of individual cases where special circumstances, such as air hazard considerations, local zoning restrictions, etc., may prevent compliance with the five-mile requirement. But it is urgent that waivers should not be granted on an automatic basis. It is suggested by some of the parties that applicants proposing sites outside the five-mile limit be required to furnish the engineering data originally suggested in the Lake Huron petition in order for the Commission to obtain the necessary data on areas and populations losing service, the existing services available to these areas, etc., so that the merits of such proposals can be assessed.

8. Several of the parties urge that, in order to avoid undue hardship, the rule should be prospective only and that it should exempt existing authorizations and applications already on file or in hearing. Other parties suggest that the rule be made applicable to pending applications; that pending applications in conflict with the rule be considered on a "case-to-case basis" with a view to withholding action until a decision is rendered in this proceeding; and that the rule apply to existing stations which propose to increase their coverage by increase in transmitter power, effective radiated power, antenna height or other modification. Lake Huron notes that the proposed amendment would enable an applicant to defeat the purpose of the rule and locate its transmitter up to 20 miles away from the city to which the channel is assigned. It argues that this could be done by selecting as the community to be served a city within 15 miles of the city to which the channel is assigned in the Table under the provisions of the "15-mile rule" (§ 3.607) and then locating the transmitter five miles from the nearest boundary of that community.

9. The parties opposing the proposed amendment direct many of their objections to the lack of any need for its adoption and to its invalidity. They urge that the present requirements afford applicants reasonable latitude for selection of the best possible sites and, at the same time, provide adequate safeguards to assure that the sites selected will serve the public interest and be consistent with the overall purpose of the assignment plan. They note that the Commission is not required to grant an application unless it would serve the public interest and that, in determining whether it meets this criterion, it can afford full consideration to the site proposed from the standpoint of whether it effectuates a fair, efficient and equitable distribution of television service and whether it would deprive areas and population of service. They submit that the Commission has recognized in its rules (§ 3.685) that the choice of a transmitter location depends

upon a variety of factors which may differ in each case and that the general factors which should go into a choice of sites are delineated with sufficient clarity and completeness. They point out that the rules and the application form require applicants to make full disclosures as to proposed antenna sites as well as understandings regarding ownership, management, control and networks, and that the Commission has authority under section 308 (b) of the Communications Act to secure whatever additional information it requires. They urge the Commission to continue its present policy of considering antenna site proposals on a case-to-case basis.

10. Some parties charge that the Commission has a duty to consider site proposals on a case-to-case basis and cannot avoid this responsibility by any "cut and dried" formula. It is pointed out that the question of appropriate location of a television antenna is a complex one which does not lend itself to rule making, and that, in the past, when the Commission has attempted to deal with situations by promulgating "rules of thumb," it has eventually determined that case-to-case consideration was preferable. It is contended that the proposed rule would not only be contrary to the general concept of public interest, convenience and necessity but would violate specific provisions of the Communications Act and firmly established Commission policy. It is urged that strict application of the proposed rule would tend to deprive rural areas of service; and that in instances where an antenna location within five miles of the principal city to be served did not provide the most efficient use of the channel involved, adherence to the rule would conflict squarely with section 307 (b) of the act. It is further maintained that under the proposed rule, an antenna site outside the five-mile limit would be conclusive evidence that the granting of an application would be against the public interest unless a waiver is obtained; that if a waiver is not requested, the applicant would be automatically disqualified and precluded from a hearing on the merits; and that if a waiver is requested, the Commission could determine without a hearing whether the waiver should be granted or the application dismissed.

11. Many of those opposing the adoption of the five-mile rule urge that it is undesirable because of its arbitrary character. They state that no reasons for its adoption are given in the notice other than a statement of the contentions made by Lake Huron and that no technical or other basis is advanced for selecting the five-mile figure. They submit that the antenna location has no bearing on the question of whether a station is providing an adequate local transmission service, that only the location of the main studio and the quantity and quality of local programming are of importance in this respect. They further contend that a fixed mileage figure bears no relation to the facts of television propagation and reception and is unsound from an engineering standpoint; that coverage depends upon a number of particular local factors of which distance is but one; that a fixed-

mileage figure would unduly restrict the location of sites and would fail to take into account such factors as population density, topography, area configuration, zoning requirements, aeronautical restrictions, costs, etc. It is argued that antennas located in close proximity to the principal city often result in the city receiving a poorer service and may prevent maximum population coverage of outlying rural areas and smaller communities. Attention is also called to the desirability of locating high-powered stations with tall towers at a distance from population centers. It is urged that the proposed limitation goes contrary to the objective of encouraging the use of tall towers to enable stations to obtain wide coverage. Tall towers, it is urged, would afford better service, prevent overloading of receivers and avoid other problems arising from ghosting and blanketing.

12. The opponents further urge that the proposed mileage yardstick is inconsistent with the objectives of section 303 (g) and 307 (b) of the Communications Act, § 3.685 (b) of the Rules, and previous Commission decisions. It is submitted that while service to the principal community is elementary to television operation, almost equally important is the valuable service which may be provided to outlying rural areas and other communities with little or no local television service of their own, and that in many cases such areas could not be reached if antenna locations were arbitrarily confined. It is contended that television service under the rule would be denied to many rural and small market areas since it would tend to force applicants to pick sites within five miles of the principal city—even though this might not be the best site for coverage—rather than incur the uncertainty and expense of seeking a waiver. It is urged that in the present state of the art, a television station cannot operate successfully in many of the smaller markets because of the lack of adequate advertising revenue; that a limitation on antenna site locations could reduce the number of viewers of a station and thus make it even more difficult for a station in a small community to compete for advertising with a station in a larger neighboring community; that stations in smaller communities, particularly UHF stations and marginal and submarginal operations, must be permitted to take every advantage of terrain and to select an antenna site affording maximum coverage and the greatest economic potential. It is asserted that unless this ability to compete is preserved, prospective operators of unassigned facilities would be unwilling in many cases to make the substantial investments required to construct and maintain stations in the smaller communities. It is further urged that the proposed rule constitutes a threat to competitive network television since in many of the important markets the only opportunity for a third network to obtain coverage is through VHF stations in nearby communities which provide usable signals to such markets, and that the offering of network programs to such communities by out-of-town stations is not in-

consistent with the obligations of those stations to provide a local service to the communities which they are licensed to serve.

13. Among the other objections raised to the adoption of the proposed amendment are that it would work an unconscionable hardship on the many existing stations with antenna sites located beyond the proposed five-mile limit if they are required to conform to the rule; that it would be highly discriminatory against future applicants if existing stations are not required to conform; that it would give existing stations another weapon with which to prevent and delay applicants from serving new areas; that the establishment of new services could be delayed by the filing of objections to requests for waiver; and that the proposed rule would be more observed by exceptions and waivers than by conformity to the rule.

14. In lieu of the proposed amendment, several parties suggest that the public interest would be better served by a technical standard related to improved service rather than an arbitrary mileage limitation on antenna locations. They suggest that stations should be required to locate their antennas to cover the city to which the channel has been assigned with a signal stronger than that placed over any other major city in the area. One party suggests that, in addition to such a requirement, the antenna should be located closer to the city to which the channel is assigned than to any other city having an assigned channel, whether VHF or UHF, and that provision should be made to permit locating an antenna closer to a different city from that to which the channel is assigned if a directional antenna is employed to place the strongest signal over the city to which the channel is assigned. Another party suggests that instead of the instant proposal, a rule be adopted to require the transmitter site to be chosen so that a higher signal intensity would be provided to the business and industrial district of the principal community to be served in order to provide an improved technical service and insure that a station's operation was related to the community. In the event the proposed rule is adopted, most of the parties urge that it should not be made applicable to existing stations and outstanding authorizations. Others suggest that it similarly should not apply to applications on file or in hearing; to applications for renewal or extensions of STA of existing stations at existing antenna sites; to applications of existing stations for modification of facilities at existing sites; to applications of existing stations not involving a substantial change in site; to applications of existing stations for modification of existing antenna facilities already beyond the proposed mileage limit, nor to any application proposing a transmitter location within the area of an "antenna farm" established for the principal community to be served. It is suggested that if the proposed rule is adopted, specific language be added to indicate its applicability and also the several bases on which a waiver will be considered. It is also urged that provision be made for an evidentiary hearing to evaluate a site

proposal before a request for waiver is denied. Finally, Deep South Broadcasting Company requests that a full evidentiary hearing or an oral argument be scheduled to resolve the legal, technical, economic and sociological issues involved in this proceeding.

15. The Commission's present rules afford wide flexibility in the choice of transmitter sites. The proposed amendment, however, would place a fixed mileage limitation on the location of such sites. We have carefully reviewed and evaluated the comments filed in this proceeding, and have concluded that a fixed limitation on the location of sites is neither desirable nor practicable. In our view, a provision which would require transmitters to be located within a specified distance from the city to be served could defeat the objectives of our assignment table by preventing the most efficient employment of television channels. It is essential, we believe, that the licensee retain flexibility in choosing a site since many varied factors enter into the selection of a site—factors such as terrain, local zoning regulations, air hazard considerations, economics, etc.

16. We believe that the present rules, which contemplate consideration on a case-by-case basis, afford adequate safeguards in insuring that the channels will be employed to serve the cities and areas contemplated by the Table of Assignments. The problem of site selection does not lend itself to treatment by hard and fast rule and can best be handled on a case-by-case basis on the particular facts in each case. We are convinced that our present procedure of considering proposed sites as they arise in each case is the most effective means of dealing with site problems and have concluded that this procedure should be continued.

17. In view of the foregoing, we have concluded that the proposed amendment should not be adopted. Accordingly, it is ordered, That the petition of Lake Huron Broadcasting Corporation be denied; and this proceeding is hereby terminated.

Adopted: November 9, 1955.

Released: November 14, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-6750; Filed, Aug. 20, 1956;
8:51 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 230]

ACCELERATION POLICY

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Securities and Exchange Commission has under consideration, for inclusion in the general rules and regulations under the Securities Act of 1933, a proposed note to § 230.460 (Rule 460) which would specify certain of the more common situations

¹ Commissioner Lee dissented in opinion.

where it is the policy of the Commission to deny acceleration of the effective date of a registration statement under the standards of section 8 (a) of the act. Existing Rule 460 recites the effect of the distribution of the preliminary prospectus upon the Commission's acceleration policy. The proposed note would represent a major step in rounding out the program of publishing the Commission's policies as a part of the general rules and regulations under the act, and would facilitate administration of the long-standing policy of the Commission, announced in Securities Act Release No. 2340, August 23, 1940, to cooperate with registrants in order that the effectiveness of registration statements filed under the act may be expedited as much as possible consistent with the public interest and the protection of investors. Subject to the standards of section 8 (a), it is the general policy of the Commission to declare a registration statement effective as soon as practicable after the filing of an appropriate amendment correcting the deficiencies, if any, and an amendment setting forth the price, if the price and terms of offering were not originally included in the registration statement.

Background. As originally enacted, section 8 (a) incorporated the 20-day period between the filing and the effective date of a registration statement as a rigid requirement of the act for a "waiting" or "cooling" period. The only acceleration authority granted to the Commission was in connection with amendments which otherwise would have commenced new periods of 20 days before the registration statement could become effective. In the exercise of this power to make the amendment relate back to the original filing date, no standards were established to control the Commission's determination other than the general congressional purpose as revealed by the act as a whole.

As amended in August 1940, section 8 (a) authorizes the Commission to determine that the registration statement may become effective at a date earlier than in the 20th day after filing "having due regard to the adequacy of the information respecting the issuer theretofore available to the public, to the facility with which the nature of the securities to be registered, their relationship to the capital structure of the issuer and the rights of holders thereof can be understood, and to the public interest and the protection of investors."

In adopting this amendment to the act, Congress charged the Commission with responsibility for shortening the waiting period only where such action was consistent with the broad standards set forth in the amendment. In passing upon requests for acceleration of the effective date of a registration statement, the Commission acts on a case-by-case basis after consideration of all pertinent factors. However, certain of the principal areas in which the Commission has refused acceleration have formed a pattern and the decisions in these areas are reflected in the proposed note.

Analysis of proposal. The proposed note would give notice of the Commission's policy against acceleration of the effective date of registration statements

in cases of indemnification by the registrant (by contract, charter, by-law, statute, or otherwise) of its officers, directors or controlling persons against liabilities arising under the Securities Act of 1933. The Commission regards such indemnification as unenforceable under the policies of the act and acceleration may be denied except where appropriate waivers are obtained or an agreement is included in the registration statement to submit such claims for indemnification to a Court of appropriate jurisdiction. The note makes clear that this policy also relates to indemnification agreements in underwriting contracts in cases where an officer, director and controlling person of the registrant is an underwriter or a controlling person of the underwriter.

The note also declares that the Commission may deny acceleration where the issuer, a controlling person or an underwriter is being investigated by the Commission under one of the statutes administered by the Commission. For example, acceleration may be denied if the Commission has reason to believe that an underwriter of the securities covered by the registration statement has engaged in "gun jumping," that is, has sold such securities prior to the effective date of registration.

Another area covered by the note is the refusal of the Commission to grant requests for acceleration where a registration statement relates to a preferred stock which has a par or stated value substantially less than its liquidating preference and no agreement is made to restrict surplus to the point where capital and surplus would at least equal the liquidating preference of the preferred stock. This policy has been followed even though the disparity between the liquidating preference of the stock and its par or stated value is disclosed in the registration statement.

Section 240.15c3-1 (Rule X-15c3-1), adopted under section 15 (c) (3) of the Securities Exchange Act of 1934 provides, generally speaking, that no broker or dealer shall permit his aggregate indebtedness to other persons to exceed 2,000 per cent of his net capital. In determining net capital there must be deducted specified percentages of "open contractual commitments" in respect to the purchase of securities and "contractual commitments" are defined to include "underwriting contracts." The general purpose of Rule X-15c3-1 is to provide a safeguard for investors with respect to the financial responsibility of brokers and dealers. The proposed note would provide that the Commission may refuse to accelerate the effective date of a registration statement where one or more of the underwriters of the securities to be offered fails to meet the responsibility test of Rule X-15c3-1.

The proposed note would also provide that a request for acceleration of the effective date of registration may be denied when a registration statement covers securities held by individual stockholders who are not paying their equitable share of the expenses of registration and sale. Included in the concept of such expenses are such matters

as indemnification by the issuer to the underwriters.

Another provision of the proposed note relates to the Commission's policy to refuse acceleration where there have been prior transactions in a registrant's stock by persons connected with the offering, which tend artificially to raise the market price of the securities being offered.

Statutory basis. The authority to adopt the proposed note is vested in the Commission by the Securities Act of 1933, particularly sections 8 (a) and 19 (a).

Text of note. The text of the proposed note, which would be added to § 230.460, is as follows:

§ 230.460 Preparation and distribution of preliminary prospectus. * * *

NOTE: Having due regard to the adequacy of information respecting the issuer theretofore available to the public, to the facility with which the nature of the securities to be registered, their relationship to the capital structure of the issuer and the rights of holders thereof can be understood, and to the public interest and the protection of investors, as provided in section 8 (a) of the act, it is the general policy of the Commission, upon request as provided in § 230.461 (Rule 461), to permit acceleration of the effective date of a registration statement as soon as practicable after the filing of an appropriate amendment correcting the deficiencies therein, if any, and setting forth the offering price and related terms (if the price and terms of offering were not originally included in the registration statement).

In determining the date on which a registration statement shall become effective the following are included in the situations in which the Commission considers that the statutory standards of section 8 (a) may not be met and may refuse to accelerate the effective date:

(a) Where, by reason of any charter provision, by-law, contract, arrangement, statute, or otherwise, provision is made for indemnification by the registrant of a director, officer, or controlling person of the registrant against liabilities arising under the Securities Act of 1933, unless waiver is obtained from such officer, director or controlling person of the benefits of such indemnification with respect to the proposed offering or there is included in the registration statement a brief description of the indemnification provision and an undertaking in substantially the following form:

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities is asserted by a director, officer or controlling person of the registrant in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the act and will be governed by the final adjudication of such issue.

(b) Where the underwriting agreement with reference to the securities being registered contains provisions by which indemnification against liabilities arising under the Securities Act of 1933 are given by the registrant to the underwriter or controlling persons of the underwriter and a director,

officer or controlling person of the registrant is such an underwriter or a controlling person thereof or member of any firm which is such an underwriter unless a waiver or an undertaking of the character specified in paragraph (a) is included in the registration statement.

(c) Where the Commission is currently making an investigation of the issuer, a person controlling the issuer, or one of the underwriters of the securities to be offered, pursuant to any of the acts administered by the Commission.

(d) Where a registration statement relates to a preferred stock or the issuer has outstanding a preferred stock which has a par or stated value substantially less than its liquidating preference and no agreement is made to restrict the surplus available for dividends to any junior security to the point where capital and surplus would at least equal the liquidating preference of the preferred stock.

(e) Where one or more of the underwriters, although firmly committed to purchase securities covered by the registration statement, are subject to and do not meet the financial responsibility requirements of Rule X-15c3-1 under the Securities Exchange Act of 1934. For the purposes of this paragraph underwriters will be deemed to be firmly committed even though the obligation to purchase is subject to the usual conditions as to receipt of opinions of counsel, accountants, etc., the accuracy of warranties or representations, the happening of calamities or the occurrence of other events the determination of which is not expressed to be in the sole or absolute discretion of the underwriters.

(f) Where there have been transactions in securities of the registrant by persons connected with or proposed to be connected with the offering which may have artificially affected or may artificially affect the market price of the security being offered.

(g) If a registration statement covers securities to be distributed directly or indirectly for the account of a selling stockholder, where such selling stockholder does not bear an equitable proportion of the expenses of registration and sale. For the purposes of this paragraph, indemnification of the underwriter will be deemed to be included in the concept of expenses of registration.

All interested persons are invited to submit views and comments on the proposed note in writing to the Securities and Exchange Commission, Washington 25, D. C., on or before October 31, 1956. Unless the person submitting any such comments or suggestions requests that his views not be made part of the Commission's public files, they will be made available for public inspection.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

AUGUST 8, 1956.

[F. R. Doc. 56-6732; Filed, Aug. 20, 1956; 8:48 a. m.]

[17 CFR Parts 230, 239]

FORM AND CONTENT OF PROSPECTUSES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of a rule under the Securities Act of 1933 providing for the use of summary prospectuses and proposed amendments to Forms S-1 and S-9 (§§ 239.11 and

239.22) which would prescribe the content of such prospectuses.

Section 10 (b) of the act, as amended in 1954, authorizes the Commission to adopt rules and regulations permitting the use in making offers of securities of a prospectus which omits in part or summarizes information required to be set forth in the more complete prospectus required to be used in connection with the sale of securities. It is proposed that summary prospectuses contain substantially the same information as now specified for newspaper prospectuses relating to securities registered on those forms and that the requirements with respect to the two types of prospectuses be merged. This would permit a summary prospectus to be published in a newspaper or other periodical, or to be printed in a form suitable for manual or other distribution.

Under the proposed regulations, the use of summary prospectuses would be limited to registrants which file reports under section 13 or 15 (d) of the Securities Exchange Act of 1934. The purpose of this provision is to limit the use of such prospectuses to companies which have been publishing information and financial statements meeting the Commission's disclosure standards.

1. The text of the proposed rule would be as follows:

§ 230.434a Summary prospectuses.

(a) A prospectus prepared in accordance with this rule shall be deemed to be a summary prospectus which meets the requirements of section 10 for the purpose of section 5 (b) (1) of the act if the registrant files periodic reports with the Commission pursuant to section 13 or 15 (d) of the Securities Exchange Act of 1934 and the form used for registration provides for the use of a summary prospectus.

(b) A summary prospectus shall contain the items of information specified in the instructions as to summary prospectuses in the form used for registration of the securities to be offered. Such prospectus shall not contain any information the substance of which is not contained in the registration statement.

(c) All information included in a summary prospectus, other than the statements specified below, may be expressed in such condensed or summarized form as may be appropriate in the light of the circumstances under which the prospectus is to be used. The information need not follow the numerical sequence of the items of the form used for registration and no information, other than the capitalization table and the summary of earnings, need be given in tabular form. Every summary prospectus shall be dated approximately as of the date of its first use.

(d) When used prior to the effective date of the registration statement, a summary prospectus shall be captioned a "Preliminary Summary Prospectus" and shall contain the further statement required by § 230.433 (b) (Rule 433 (b)).

(e) There shall be set forth at the end of every summary prospectus, in conspicuous print, a statement to the following effect:

Copies of a more complete prospectus which must be furnished each purchaser may be obtained from the following persons. (Insert names.)

(f) All information and statements included in a summary prospectus shall be set forth in type at least as large as ten-point modern type, with a leading of at least two points, provided that financial or other tabular data need only be set in type at least as large as eight-point modern type, with a leading of at least two points, and provided further, that any summary prospectus published in a newspaper, magazine or other periodical, need only be set in type at least as large as seven-point modern type.

(g) Eight copies of every proposed summary prospectus shall be filed with the registration statement as a part thereof, or as an amendment thereto, at least 5 business days prior to the use thereof, or prior to the submission of definitive copies thereof to any newspaper, magazine or other periodical for publication, whichever is earlier. Within 7 days after the first use or publication thereof, 5 additional copies shall be filed in the exact form in which it was used or published.

(h) A summary prospectus used pursuant to this section shall be subject to the suspension power of the Commission under section 10 (b) of the act.

2. Proposed amendment to Form S-1. The Instructions as to Newspaper Prospectuses would be deleted from Form S-1 (§ 239.11) and the following instructions adopted in lieu thereof:

Instructions as to summary prospectuses. A summary prospectus used pursuant to § 230.434a (Rule 434a) shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(a) As to Item 1, the aggregate offering price to the public, the aggregate underwriting discounts and commissions and the offering price per unit to the public; as to Item 2 (a), a brief statement as to the nature of the underwriter's obligation to take the securities; as to Item 2 (c), a brief statement as to the manner of distribution; as to Item 3, a brief statement of the principal purposes for which the proceeds are to be used; Item 4; Item 5; Item 6; Item 7; Item 8; as to Item 9, a brief statement of the general character of the business done and intended to be done; as to Item 10, a brief statement of the general type of property; Item 11 (a); as to Item 12, a brief statement of the nature and present status of any pending bankruptcy, receivership, anti-trust or similar proceedings; Item 13 (a); Item 14 (a); as to

Item 15, information corresponding to the foregoing; and Item 18 (b) if the securities being registered are equity securities and there are outstanding options to purchase securities of the same class.

(b) The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of any of the information herein required or the furnishing in substitution therefor of appropriate information of comparable character. The Commission may also require the inclusion of other information in addition to, or in substitution for, the information herein required in any case where such information is necessary or appropriate for the protection of investors.

3. Proposed amendment of Form S-9. The Instructions as to Newspaper Prospectuses would be deleted from Form S-9 (§ 239.22) and the following instructions adopted in lieu thereof:

Instructions as to summary prospectuses. A summary prospectus used pursuant to § 230.434a (Rule 434a) shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(a) As to Item 1, the aggregate and per unit offering price to the public and the per unit underwriting discounts or commissions; as to Item 2, a brief statement of the purpose for which the proceeds are to be used; Item 3; and Item 4 (a).

(b) The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of any of the information herein required or the furnishing in substitution therefor of appropriate information of comparable character. The Commission may also require the inclusion of other information in addition to, or in substitution for, the information herein required in any case where such information is necessary or appropriate for the protection of investors.

The foregoing action is proposed pursuant to the Securities Act of 1933, particularly sections 6, 7, 10, and 19 (a) thereof.

All interested persons are invited to submit data, views and comments on the above mentioned proposals in writing to the Securities and Exchange Commission, Washington 25, D. C., on or before October 31, 1956. Except where it is requested that such communications be kept confidential they will be available for public inspection.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

AUGUST 10, 1956.

[F. R. Doc. 56-6733; Filed, Aug. 20, 1956; 8:40 a.m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order 18085, Amdt.]

HANS NITSCHMANN

In re: Securities owned by and debts owing to Hans Nitschmann. F-28-31482.

Vesting Order 18085, dated June 20, 1951, is hereby amended as follows and not otherwise:

By deleting subparagraph 2-c of said Vesting Order 18085, and substituting therefor the following:

c. That certain debt or other obligation, matured and unmatured, evidenced by a Cities Service Power & Light Com-

pany 5½ percent Gold Debenture, due 1949, of \$1,000 face value, bearing the number M-5388, and evidenced by coupons attached to or detached from said bond and due on or after June 1, 1943, together with any and all accruals to the aforesaid debt or other obligation, and any and all rights to demand, enforce and collect the same, and any and all rights in, to and under the aforesaid bond, and coupons, and

All other provisions of said Vesting Order 18085 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on August 16, 1956.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 56-6739; Filed, Aug. 20, 1956; 8:49 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-10576 etc.]

ALAMEDA COOPERATIVE GAS ASSOCIATION, INC., ET AL.

NOTICE OF APPLICATIONS

AUGUST 15, 1956.

In the matters of Alameda Cooperative Gas Association, Inc., Docket No. G-10576; Blackfoot Cooperative Gas Association, Inc., Docket No. G-10577; Burley Cooperative Gas Association, Inc., Docket No. G-10578; Caldwell Cooperative Gas Association, Inc., Docket No. G-10579; Idaho Falls Cooperative Gas Association, Inc., Docket No. G-10580; Jerome Cooperative Gas Association, Inc., Docket No. G-10581; Meridian Cooperative Gas Association, Inc., Docket No. G-10582; Montpelier Cooperative Gas Association, Inc., Docket No. G-10583; Mountain Home Cooperative Gas Association, Inc., Docket No. G-10584; Pocatello Cooperative Gas Association, Inc., Docket No. G-10585; Rupert Cooperative Gas Association, Inc., Docket No. G-10586; Weiser Cooperative Gas Association, Inc., Docket No. G-10587.

Take notice that there have been filed with the Federal Power Commission, on June 14, 1956, twelve applications pursuant to subsections (a) and (c) of section 7 of the Natural Gas Act, authorizing the construction and operation of natural gas facilities and for orders directing Pacific Northwest Pipeline Corporation (Pacific) to establish physical connection of its transportation facilities with the proposed facilities of the respective Applicants and to sell and deliver natural gas to each as hereinafter described, all as more fully represented in the respective applications, which are now on file with the Commission and open to public inspection.

Each Applicant is a non-profit privately owned cooperative association

* Hereinafter referred to collectively, as "Applicants".

existing under the laws of the State of Idaho and propose to construct and operate facilities for the distribution of natural gas in their respective communities, as included in the names of the cooperatives.

The fifth year peak day requirements of the respective applicants are as follows:

Applicant	Peak day MCF
Alameda Cooperative Gas Association, Inc.	2,707
Blackfoot Cooperative Gas Association, Inc.	2,942
Burley Cooperative Gas Association, Inc.	3,474
Caldwell Cooperative Gas Association, Inc.	5,837
Idaho Falls Cooperative Gas Association, Inc.	8,995
Jerome Cooperative Gas Association, Inc.	2,091
Meridian Cooperative Gas Association, Inc.	1,000
Montpelier Cooperative Gas Association, Inc.	1,276
Mountain Home Cooperative Gas Association, Inc.	2,239
Pocatello Cooperative Gas Association, Inc.	8,989
Rupert Cooperative Gas Association, Inc.	539
Weiser Cooperative Gas Association, Inc.	2,197

Protests or petitions to intervene may be filed with the Commission in accordance with § 1.8 or § 1.10 of its rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 31, 1956.

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-6722; Filed, Aug. 20, 1956; 8:46 a. m.]

[Project No. 2146]

ALABAMA POWER CO.

NOTICE OF AMENDMENT AND SUPPLEMENT TO APPLICATION FOR LICENSE

AUGUST 14, 1956.

Public notice is hereby given that Alabama Power Company of Birmingham, Alabama, has filed an amendment and supplement to its application for license, notice of which was published during January and February 1956. The amendment requests that Alabama Power Company's existing hydroelectric developments, licensed as Project Nos. 82 and 618, designated Mitchell and Jordan, respectively, be included in the license for Project No. 2146 if issued. The Mitchell and Jordan developments are located immediately downstream from the existing Lay development described in the original application for Project No. 2146. Applicant proposes to surrender its licenses for Project Nos. 82 and 618, upon issuance of a license for Project No. 2146 to include the Mitchell and Jordan developments which consist of: (1) Mitchell Development: A concrete dam and gated spillway; a reservoir with normal pool elevation of 350 feet (U. S. Army datum); a powerhouse integral with the dam containing three 24,000-horsepower turbines and one 29,000-horsepower turbine; a step-up substation and switching station

located on the deck of the dam; a double circuit 110 KV steel tower transmission line extending to a substation at Lay Dam; and appurtenant mechanical and electrical facilities; and (2) Jordan Development: A concrete gravity dam comprised of a gated spillway section, powerhouse intake section and abutment sections; a reservoir with normal pool elevation of 290 feet (U. S. Army datum); a powerhouse integral with the dam containing four 36,000-horsepower turbines; a substation and switchyard; three 110 KV transmission lines; and appurtenant mechanical and electrical facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last date upon which protests may be filed is September 27, 1956. The application is on file with the Commission for public inspection.

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-6721; Filed, Aug. 20, 1956; 8:46 a. m.]

[Project No. 2210]

APPALACHIAN ELECTRIC POWER CO.

NOTICE OF APPLICATION FOR PRELIMINARY PERMIT

AUGUST 14, 1956.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U. S. C. 791a-825r) by Appalachian Electric Power Company of Roanoke, Virginia, for preliminary permit for proposed water power Project No. 2210 to be located on Roanoke River (sometimes called Staunton River) in the region of Roanoke, Rockymount, Moneta, Altavista and Gretna, and in Bedford, Pittsylvania, Franklin, and Roanoke Counties, Virginia, affecting navigable waters of the United States. The proposed project would consist of a rock-fill dam approximately 200 feet high located in gap of Smith Mountain about 4 miles above mouth of Pigg River, with side-channel spillway; a storage reservoir extending about 38 miles upstream from damsite and having gross capacity of about 1,000,000 acre-feet; and a powerhouse located at foot of dam with installed capacity of 60,000 kilowatts. The preliminary permit, if issued, shall be for the sole purpose of maintaining priority of application for a license under the terms of the Federal Power Act for the proposed project.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is September 20, 1956. The application is on file with the Commission for public inspection.

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-6720; Filed, Aug. 20, 1956; 8:46 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Gallup Area Office Relegation Order 2, Amdt. 5]

GENERAL SUPERINTENDENTS, SUPERINTENDENTS AND OTHER DESIGNATED EMPLOYEES
REDELEGATION OF AUTHORITY; NAVAJO AGENCY

Order No. 2, as amended (19 F. R. 8675; 20 F. R. 2894, 3941, and 8780), is further amended as hereinafter indicated.

PART 5—AUTHORITY OF SUBAGENCY SUPERINTENDENTS, NAVAJO AGENCY

FUNCTIONS RELATING TO TRADE WITH INDIANS

Section 5.170, is further amended to read as follows:

Sec. 5.170 *Peddler permits.* The issuance of permits to Indian peddlers pursuant to the provisions of 25 CFR Part 277, provided each such permit is limited to lands under the jurisdiction of the Subagency Superintendent issuing the permit.

W. WADE HEAD,
Area Director.

Approved: August 15, 1956.

W. BARTON GREENWOOD,
Acting Commissioner.

[F. R. Doc. 56-6716; Filed, Aug. 20, 1956; 8:45 a. m.]

Bureau of Land Management

[Document 138]

[Classification 52]

ARIZONA

SMALL TRACT CLASSIFICATION

AUGUST 13, 1956.

1. Pursuant to authority delegated by Document No. 43, Arizona, effective May 19, 1955, (20 F. R. 3514-15), I hereby classify the following described public lands, totalling approximately 800 acres in Maricopa County, Arizona, as suitable for lease and sale for residence purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended.

GILA AND SALT RIVER MERIDIAN

T. 4 N., R. 3 E.

Sec. 21: E $\frac{1}{2}$ exclusive of patented mining claim;Sec. 22: W $\frac{1}{2}$ exclusive of patented mining claim;Sec. 22: W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$;Sec. 27: N $\frac{1}{2}$ exclusive of patented mining claim;Sec. 27: N $\frac{1}{2}$ S $\frac{1}{2}$ exclusive of patented mining claim and other patented land.

2. Classification of the above-described lands by this order segregates them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

3. The lands classified by this order shall not become subject to application under the Small Tract Act of June 1,

1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to application or bid with a preference right to veterans of World War II and of the Korean conflict and other qualified persons entitled to preference under the act of September 27, 1944 (58 Stat. 497; 43 U. S. C. 279-284), as amended.

4. All valid applications filed prior to May 7, 1946 will be granted, as soon as possible, the preference right provided for by 43 CFR 257.5 (a).

E. R. TRAGITT,
State Lands and Minerals
Staff Officer.

[F. R. Doc. 56-6718; Filed, Aug. 20, 1956; 8:46 a. m.]

[Area Order 8]

STATE SUPERVISORS ET AL., AREA III

REDELEGATION OF AUTHORITY WITH RESPECT TO CONTRACTS AND LEASES

JULY 10, 1956.

Pursuant to the authority contained in section 1 of Order No. 615 of the Director, Bureau of Land Management, the following are authorized to enter into contracts for construction, supplies, or services, and lease of space in real estate as provided above when the amount in any contract does not exceed \$500.00:

State Supervisors, Area III.
Land Office Managers, Area III.
District Range Managers, Area III.
Chiefs, Cadastral Survey Parties, Area III.

W. B. WALLACE,
Area Administrator.

[F. R. Doc. 56-6731; Filed, Aug. 20, 1956; 8:48 a. m.]

CIVIL SERVICE COMMISSION

CERTAIN CLASSES OF POSITIONS IN A NUMBER OF PROFESSIONAL ENGINEERING AND PHYSICAL SCIENCE SERIES IN CONTINENTAL UNITED STATES; ITS TERRITORIES AND POSSESSIONS (EXCEPT PUERTO RICO); AND IN FOREIGN COUNTRIES

NOTICE OF INCREASE IN MINIMUM RATES OF PAY

Under the provisions of section 803 of the Classification Act of 1949, as amended (68 Stat. 1106; 5 U. S. C. 1133), pursuant to 5 CFR 25.103, 25.105, the Commission has increased the minimum rate of pay at grades GS-9, GS-11, GS-12, GS-13, GS-14, GS-15, GS-16, and GS-17 for 34 classification specializations covering classes of positions specified by the following titles:

Research Engineer (Aeronautical Instrumentation) GS-801-0
Aeronautical Structural Materials Research Engineer GS-806-0
Aeronautical Propulsion Systems Materials Research Engineer GS-806-0
Aeronautical Lubrication Research Engineer GS-806-0
Mechanical Engineer (Aeronautical Nuclear Propulsion Research) GS-830-0

Aeronautical Power Plant Research Engineer GS-834-0
Aeronautical Rocket Power Plant Research Engineer GS-834-0
Aeronautical Rocket Power Plant Research Engineer (Thermodynamics) GS-834-0
Aeronautical Power Plant Research Engineer (Propulsion Systems Controls) GS-834-0
Aeronautical Power Plant Research Engineer (Propulsion Systems Control Theory) GS-834-0
Aeronautical Power Plant Research Engineer (Combustion) GS-834-0
Aeronautical Power Plant Research Engineer (Fuels and Combustion) GS-834-0
Aeronautical Power Plant Research Engineer (Structures) GS-834-0
Aeronautical Power Plant Research Engineer (Thermodynamics) GS-834-0
Aeronautical Research Engineer (Aerodynamics) GS-861-0
Aeronautical Research Engineer (Aerodynamic Theory) GS-861-0
Aeronautical Research Engineer (Rotary Wing) GS-861-0
Aeronautical Research Engineer (Stability and Control) GS-861-0
Aeronautical Research Engineer (Automatic Stability and Control) GS-861-0
Aeronautical Research Engineer (Flutter and Vibration) GS-861-0
Aeronautical Research Engineer (Structures) GS-861-0
Aeronautical Research Engineer (Structures Theory) GS-861-0
Aeronautical Research Engineer (Hydrodynamics) GS-861-0
Aeronautical Research Engineer (Aerodynamic Loads) GS-861-0
Aeronautical Research Engineer (Propulsion Aerodynamics) GS-861-0
Aeronautical Research Engineer (Landing Loads) GS-861-0
Aeronautical Research Engineer (Landing Loads Theory) GS-861-0
Aeronautical Research Engineer (Aerothermodynamics) GS-861-0
Aeronautical Research Engineer (Flight Systems) GS-861-0
Aeronautical Research Engineer and Pilot GS-861-0
Aeronautical Research Administrator GS-1301-0
Physicist (Solid State) GS-1310-0
Physicist (Physics of Atmosphere) GS-1310-0
Chemist (Aeronautical Fuels Research) GS-1320-0

The new minimum rates of pay have been set as follows:

GS-9 \$6,250 (top step).
GS-11 7,465 (top step).
GS-12 8,645 (top step).
GS-13 10,065 (top step).
GS-14 11,395 (top step).
GS-15 12,690 (top step).
GS-16 13,760 (top step).
GS-17 14,835 (top step).

The increases will be effective on the first day of the first pay period which begins after September 22, 1956, and apply to these positions throughout the continental United States; its territories and possessions (except Puerto Rico); and in foreign countries.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 56-6737; Filed, Aug. 20, 1956; 8:49 a. m.]

SECURITIES AND EXCHANGE
COMMISSION

[File No. 7-1818]

BENGUET CONSOLIDATED, INC.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

AUGUST 15, 1956.

In the matter of application by the San Francisco stock exchange for unlisted trading privileges in Benguet Consolidated, Inc., Capital Stock, File No. 7-1818.

The above named stock exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before August 31, 1956, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.[F. R. Doc. 56-6734; Filed, Aug. 20, 1956;
8:49 a. m.]INTERSTATE COMMERCE
COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 16, 1956.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 32531: Substituted service—motor-rail-motor — Pennsylvania Rail-

road. Filed by Transamerican Freight Lines, Inc., Agent, for itself, The Pennsylvania Railroad Company and other interested motor carriers. Rates on freight loaded in highway truck semi-trailers and transported on railroad flat cars between Cleveland, Ohio, on the one hand, and Philadelphia, Pa., or Kearny, N. J., on the other.

Grounds for relief: Motor truck competition.

Tariff: Transamerican Freight Lines, Inc., tariff I. C. C. No. 5.

FSA No. 32532: All freight—Illinois and Iowa points to official territory. Filed by The Chicago, Rock Island and Pacific Railroad Company, for itself and interested rail carriers. Rates on freight, all kinds, mixed carloads from Davenport, Iowa, Joliet and Peoria, Ill., to specified points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island.

Grounds for relief: Circuitous routes.

Tariff: Chicago, Rock Island and Pacific Railroad Company tariff, I. C. C. No. C-13556.

FSA No. 32533: Liquefied petroleum gas—southwest and mid-continent fields to Ohio. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on liquefied petroleum gas, tank-car loads from specified points in Arkansas, Kansas, Louisiana (west of the Mississippi River), Missouri, New Mexico, Oklahoma and Texas to Batavia, Cincinnati, Lebanon, and Loveland, Ohio.

Grounds for relief: Equalization of rates via St. Louis, Mo., gateways with rates over other gateways and circuitous routes.

Tariff: Supplement 68 to Agent Kratzmeir's I. C. C. 4150.

FSA No. 32534: Petroleum and products—Fairmont, Pa., group to the South. Filed by C. W. Boin, Agent, for interested rail carriers. Rates on petroleum and petroleum products, carloads from Fairmont, Karns City, Petrolia, and Bruin, Pa., to specified points in Alabama, Florida, Georgia, Kentucky, Louisiana (east of the Mississippi River), Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, also Cincinnati, Ohio.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 11 to Agent Boin's tariff I. C. C. A-1035.

FSA No. 32535: Fertilizer solutions—Tuscola, Ill., and Lima, Ohio to Louisville, Ky. Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on nitrogen and ammoniating fertilizer solu-

tions, tank-car loads from Tuscola, Ill., and Lima, Ohio to Louisville, Ky.

Grounds for relief: Market competition and circuitous routes.

Tariff: Baltimore and Ohio Railroad Company Tariff I. C. C. 24320 and five other tariffs.

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.[F. R. Doc. 56-6724; Filed, Aug. 20, 1956;
8:47 a. m.]

VETERANS ADMINISTRATION

CHAIRMAN, CENTRAL COMMITTEE ON
WAIVERS AND FORFEITURES ET ALDELEGATION OF AUTHORITY WITH RESPECT
TO WAIVERS CONCERNING RECOVERY OF
PAYMENTS

In section 6 (appearing in the issue of Thursday, October 28, 1954, 19 F. R. 6963), paragraph (b) is amended to read as follows:

Sec. 6. Delegation of authority to certain employees. * * *

(b) The Chairman, Central Committee on Waivers and Forfeitures, Section Chairman, Central Committee on Waivers and Forfeitures, Chairmen and Section Chairmen, Committee on Waivers, are hereby delegated authority to take final action in the waiver of the recovery of payments from any person pursuant to the provisions of Title 38, sections 33, 453, 507a, and 809, U. S. Code, as amended, subject to any limitations imposed by current regulations and instructions.

[SEAL]

JOHN S. PATTERSON,
Deputy Administrator.[F. R. Doc. 56-6727; Filed, Aug. 20, 1956;
8:47 a. m.]HOUSING AND HOME FINANCE
AGENCY

Public Housing Administration

ALEXANDER HASBANY

REVOCATION OF DELEGATION OF AUTHORITY
WITH RESPECT TO CERTAIN POWERS

Section II Delegations of final authority, is amended as follows:

Paragraph G11, delegating certain powers to Alexander Hasbany, Realty Assistant, is hereby revoked.

Date approved: August 13, 1956.

[SEAL]

CHARLES E. SLUSSER,
Commissioner.[F. R. Doc. 56-6723; Filed, Aug. 20, 1956;
8:47 a. m.]





